

THE DOCUMENTARY HISTORY OF THE
RATIFICATION OF THE CONSTITUTION
AND THE BILL OF RIGHTS

VOLUME XXXVII

Ratification of the

BILL OF RIGHTS

[1]

Articles		Affirmative.										Negative (1789)					
		R.I.	MA	N.J.	P.	D.	M.	V.	NC	S.C.							
I.	MA		Y	N	J	P											
II.			Y				D	M	V	NC	S.C.						
III.	MA	R.I.	Y	N	J	P	D	M	V	NC	S.C.						
IV.	MA	R.I.	Y	N	J	P	D	M	V	NC	S.C.						
V.	MA	R.I.	Y	N	J	P	D	M	V	NC	S.C.						
VI.	MA	R.I.	Y	N	J	P	D	M	V	NC	S.C.						
VII.	MA	R.I.	Y	N	J	P	D	M	V	NC	S.C.						
VIII.	MA	R.I.	Y	N	J	P	D	M	V	NC	S.C.						
IX.	MA	R.I.	Y	N	J	P	D	M	V	NC	S.C.						
X.	MA	R.I.	Y	N	J	P	D	M	V	NC	S.C.						
XI.	MA	R.I.	Y	N	J	P	D	M	V	NC	S.C.						
XII.	MA	R.I.	Y	N	J	P	D	M	V	NC	S.C.						

Thomas Jefferson's Tally Sheet

After four months of debate, the First Federal Congress in September 1789 agreed to propose twelve amendments to the Constitution that were submitted to the states for their legislative approval. President George Washington sent manuscript broadsides of the twelve amendments to the state executives on 2 October 1789. When a legislature acted on the amendments, it notified President Washington, who, in turn, notified both Congress and the office of the Secretary of State.

As the official "certifying officer," Secretary of State Thomas Jefferson determined which amendments had been officially adopted. To assist him in cataloging the state ratifications, Jefferson drafted a chart with the twelve amendments listed in the left-hand column and with twenty-six empty boxes in the top row-half for "affirmative" actions and half for "negative" actions. As each state responded, Jefferson inserted its action in the appropriate empty box in a vertical column reserved for that particular state arranged left-to-right in a north-to-south arrangement. When Vermont joined the Union and ratified the twelve amendments, Jefferson did not draft another chart, but rather assigned Vermont (with a "V") on the vertical line between the columns reserved for the states of Connecticut and New York. Jefferson left the columns for Massachusetts, Connecticut, and Georgia blank because these states did not send an official "exemplification" of their actions.

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Volume XXXVII

BILL OF RIGHTS

[1]

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This volume is dedicated to Jonathan M. Reid, who, before illness forced his resignation, was an integral member of the Center for the Study of the American Constitution for more than a decade. In addition to being a kind and considerate person, Jonathan was a superb editor who conceptualized and helped to implement many of the Center's activities and publications. His presence among us is sorely missed.

Organization

The Documentary History of the Ratification of the Constitution is divided into:

- (1) *Constitutional Documents and Records, 1776–1787* (1 volume),
- (2) *Ratification of the Constitution by the States* (27 volumes),
- (3) *Commentaries on the Constitution: Public and Private* (6 volumes),
- (4) *The Bill of Rights* (6 volumes).

Internet Availability

The DHRC volumes will be found on the website of “Rotunda: The American Founding Era,” maintained by the University of Virginia Press (<http://rotunda.upress.virginia.edu>), and at UW Digital Collections on the website of the University of Wisconsin–Madison Libraries (<https://uwdc.library.wisc.edu>). The latter platform also contains the supplemental documents for the state volumes.

Constitutional Documents and Records, 1776–1787 (Vol. I).

This introductory volume, a companion to all of the other volumes, traces the constitutional development of the United States during its first twelve years. Cross-references to it appear frequently in other volumes when contemporaries refer to events and proposals from 1776 to 1787. The documents include: (1) the Declaration of Independence, (2) the Articles of Confederation, (3) ratification of the Articles, (4) proposed amendments to the Articles, proposed grants of power to Congress, and ordinances for the Western Territory, (5) the calling of the Constitutional Convention, (6) the appointment of Convention delegates, (7) the resolutions and draft constitutions of the Convention, (8) the report of the Convention, and (9) the Confederation Congress and the Constitution.

Ratification of the Constitution by the States (Vols. II–XII, XIX–XXXIV).

The volumes are arranged roughly in the order in which the states considered the Constitution. Although there are variations, the documents for each state are organized into the following groups: (1) commentaries from the adjournment of the Constitutional Convention to the meeting of the state legislature that called the state convention, (2) the proceedings of the legislature in calling the convention, (3) commentaries from the call of the convention until its meeting, (4) the election of convention delegates, (5) the proceedings of the convention, and (6) post-convention documents.

Supplements to Ratification of the Constitution by the States.

Supplemental documents were originally placed on microfiche and are available in that form for Pennsylvania (Vol. II), Delaware, New

Jersey, Georgia, and Connecticut (all four, Vol. III), and Virginia (Vols. VIII–X). The original microfiche editions of supplemental documents for Pennsylvania, Delaware, New Jersey, Georgia, Connecticut, and Virginia were digitized for online viewing. These digitized supplements can be located at UW Digital Collections on the website of the University of Wisconsin–Madison Libraries (<https://uwdc.library.wisc.edu>). Supplemental documents for all of the states will be made available in digital form in the coming years. (Because of the importance of the Pennsylvania Supplemental Documents to both the Pennsylvania and the national debate over the Constitution, these documents have been published as RCS volumes XXXII–XXXIV.)

Much of the material for each state is repetitious or peripheral but still valuable. Mostly literal transcripts of this material are placed in the supplements. (Any exceptions to this rule have been clearly indicated.) Many facsimiles are also included.

The types of documents in the supplements are:

(1) newspaper items that repeat arguments, examples of which are printed in the state volumes,

(2) pamphlets that circulated primarily within one state and that are not printed in the state volumes or in *Commentaries*,

(3) letters that contain supplementary material about politics and social relationships,

(4) images of petitions with the names of signers,

(5) images of manuscripts such as notes of debates, and

(6) miscellaneous documents such as election certificates, attendance records, pay vouchers and other financial records, etc.

Commentaries on the Constitution: Public and Private (Vols. XIII–XVIII).

This series contains newspaper items, pamphlets, and broadsides that circulated regionally or nationally. It also includes some private letters that give the writers' opinions of the Constitution in general or that report on the prospects for ratification in several states. Except for some grouped items, documents are arranged chronologically and are numbered consecutively throughout the six volumes. There are frequent cross-references between *Commentaries* and the state series.

The Bill of Rights (Vols. XXXVII–XLII).

The public and private debate on the Constitution continued in several states after ratification. It was centered on the issue of whether there should be amendments to the Constitution and the manner in which amendments should be proposed—by a second constitutional convention or by the new U.S. Congress. A bill of rights was proposed in the U.S. Congress on 8 June 1789. Twelve amendments were adopted

on 25 September and were sent to the states by President George Washington on 2 October. These volumes will contain the documents related to the public and private debate over amendments, to the proposal of amendments by Congress, and to the ratification of the Bill of Rights by the states.

Editorial Procedures

All documents are transcribed literally. Obvious slips of the pen and errors in typesetting contemporary newspapers, broadsides, and pamphlets are silently corrected. When spelling, capitalization, punctuation, paragraphing, and spacing between words are unclear, modern usage is followed. Superscripts and interlineations are lowered to the line, and marginalia are inserted where the author intended. The thorn is spelled out (i.e., “ye” becomes “the”). Crossed-out words are included when significant. Obsolete meanings of words are supplied in footnotes.

Square brackets are used for editorial insertions. Conjectural readings are enclosed in brackets with a question mark. Illegible and missing words are indicated by dashes enclosed in brackets. However, when the author’s intent is obvious, illegible or missing text (up to five characters in length) is silently provided.

All headings are supplied by the editors. Salutations, closings of letters, addresses, endorsements, docketings, and postmarks are deleted unless they provide important information, in which case they are retained in the document or placed in editorial notes. Contemporary footnotes and marginal citations are printed after the text of the document and immediately preceding editorial footnotes. Symbols used by contemporaries, such as stars, asterisks, and daggers, have been replaced by superscripted letters (a), (b), (c), etc.

Many documents, particularly letters, are excerpted when they contain material that is not relevant to ratification. Whenever an excerpt is printed in this edition and a longer excerpt or the entire document appears elsewhere in this edition or in other editions, this is noted.

General Ratification Chronology, 1786–1939

1786

21 January	Virginia calls meeting to consider granting Congress power to regulate trade.
11–14 September	Annapolis Convention.
20 September	Congress receives Annapolis Convention report recommending that states elect delegates to a convention at Philadelphia in May 1787.
11 October	Congress appoints committee to consider Annapolis Convention report.
23 November	Virginia authorizes election of delegates to Convention at Philadelphia.
23 November	New Jersey elects delegates.
4 December	Virginia elects delegates.
30 December	Pennsylvania elects delegates.

1787

6 January	North Carolina elects delegates.
17 January	New Hampshire elects delegates.
3 February	Delaware elects delegates.
10 February	Georgia elects delegates.
21 February	Congress calls Constitutional Convention.
22 February	Massachusetts authorizes election of delegates.
28 February	New York authorizes election of delegates.
3 March	Massachusetts elects delegates.
6 March	New York elects delegates.
8 March	South Carolina elects delegates.
14 March	Rhode Island refuses to elect delegates.
23 April–26 May	Maryland elects delegates.
5 May	Rhode Island again refuses to elect delegates.
14 May	Convention meets; quorum not present.
14–17 May	Connecticut elects delegates.
25 May	Convention begins with quorum of seven states.
16 June	Rhode Island again refuses to elect delegates.
27 June	New Hampshire renews election of delegates.
13 July	Congress adopts Northwest Ordinance.
6 August	Committee of Detail submits draft constitution to Convention.
12 September	Committee of Style submits draft constitution to Convention.
17 September	Constitution signed and Convention adjourns <i>sine die</i> .
20 September	Congress reads Constitution.
26–28 September	Congress debates Constitution.
28 September	Congress transmits Constitution to the states.
28–29 September	Pennsylvania calls state convention.
17 October	Connecticut calls state convention.
25 October	Massachusetts calls state convention.
26 October	Georgia calls state convention.
31 October	Virginia calls state convention.
1 November	New Jersey calls state convention.

6 November	Pennsylvania elects delegates to state convention.
10 November	Delaware calls state convention.
12 November	Connecticut elects delegates to state convention.
19 November– 7 January 1788	Massachusetts elects delegates to state convention.
20 November– 15 December	Pennsylvania Convention.
26 November	Delaware elects delegates to state convention.
27 November– 1 December	Maryland calls state convention.
27 November– 1 December	New Jersey elects delegates to state convention.
3–7 December	Delaware Convention.
4–5 December	Georgia elects delegates to state convention.
6 December	North Carolina calls state convention.
7 December	Delaware Convention ratifies Constitution, 30 to 0.
11–20 December	New Jersey Convention.
12 December	Pennsylvania Convention ratifies Constitution, 46 to 23.
14 December	New Hampshire calls state convention.
18 December	New Jersey Convention ratifies Constitution, 38 to 0.
25 December– 5 January 1788	Georgia Convention.
31 December	Georgia Convention ratifies Constitution, 26 to 0.
31 December– 12 February 1788	New Hampshire elects delegates to state convention.

1788

3–9 January	Connecticut Convention.
9 January	Connecticut Convention ratifies Constitution, 128 to 40.
9 January–7 February	Massachusetts Convention.
19 January	South Carolina calls state convention.
1 February	New York calls state convention.
6 February	Massachusetts Convention ratifies Constitution, 187 to 168, and proposes amendments.
13–22 February	New Hampshire Convention: first session.
1 March	Rhode Island calls statewide referendum on Constitution.
3–27 March	Virginia elects delegates to state convention.
24 March	Rhode Island referendum: voters reject Constitution, 2,711 to 239.
28–29 March	North Carolina elects delegates to state convention.
7 April	Maryland elects delegates to state convention.
11–12 April	South Carolina elects delegates to state convention.
21–29 April	Maryland Convention.
26 April	Maryland Convention ratifies Constitution, 63 to 11.
29 April–3 May	New York elects delegates to state convention.
12–24 May	South Carolina Convention.
23 May	South Carolina Convention ratifies Constitution, 149 to 73, and proposes amendments.
2–27 June	Virginia Convention.
17 June–26 July	New York Convention.
18–21 June	New Hampshire Convention: second session.

21 June	New Hampshire Convention ratifies Constitution, 57 to 47, and proposes amendments.
25 June	Virginia Convention ratifies Constitution, 89 to 79.
27 June	Virginia Convention proposes amendments.
2 July	New Hampshire ratification read in Congress; Congress appoints committee to report an act for putting the Constitution into operation.
21 July–4 August	First North Carolina Convention.
26 July	New York Convention Circular Letter calls for second constitutional convention.
26 July	New York Convention ratifies Constitution, 30 to 27, and proposes amendments.
2 August	North Carolina Convention proposes amendments and refuses to ratify until amendments are submitted to Congress and to a second constitutional convention.
13 September	Congress sets dates for election of President and meeting of new government under the Constitution.
20 November	Virginia requests Congress under the Constitution to call a second constitutional convention.
30 November	North Carolina calls second state convention.

1789

4 March	First Federal Congress convenes.
1 April	House of Representatives attains quorum.
6 April	Senate attains quorum.
30 April	George Washington inaugurated first President.
8 June	James Madison proposes Bill of Rights in Congress.
21–22 August	North Carolina elects delegates to second state convention.
24–26 September	Congress adopts twelve amendments to Constitution to be submitted to the states.
16–23 November	Second North Carolina Convention.
20 November	New Jersey ratifies proposed amendments.
21 November	Second North Carolina Convention ratifies Constitution, 194 to 77, and proposes amendments.
19 December	Maryland ratifies proposed amendments.
22 December	North Carolina ratifies proposed amendments.

1790

17 January	Rhode Island calls state convention.
19 January	South Carolina ratifies proposed amendments.
25 January	New Hampshire ratifies proposed amendments.
28 January	Delaware ratifies proposed amendments.
8 February	Rhode Island elects delegates to state convention.
27 February	New York ratifies proposed amendments.
1–6 March	Rhode Island Convention: first session.
10 March	Pennsylvania ratifies proposed amendments.
24–29 May	Rhode Island Convention: second session.
29 May	Rhode Island Convention ratifies Constitution, 34 to 32, and proposes amendments.
11 June	Rhode Island ratifies proposed amendments.

1791

6–10 January	Vermont Convention
10 January	Vermont Convention ratifies Constitution
18 February	Vermont admitted to the Union.
3 November	Vermont ratifies proposed amendments.
15 December	Virginia ratifies proposed amendments.
15 December	Bill of Rights adopted.

1792

1 March	Secretary of State Thomas Jefferson notifies states of the adoption of ten amendments.
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1939

2 March	Massachusetts adopts Bill of Rights.
18 March	Georgia adopts Bill of Rights.
13 April	Connecticut adopts Bill of Rights.

Calendar for the Years 1787–1792

1787

S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S
JANUARY	FEBRUARY	MARCH	APRIL
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30
MAY	JUNE	JULY	AUGUST
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31
SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

1788

S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S
JANUARY	FEBRUARY	MARCH	APRIL
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1789

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1790

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Introduction

Ever since English settlement began in North America, colonists felt the need to establish governments. Charters granted by the king or by proprietors who had been given territorial grants from the king, provided the foundations for rudimentary colonial governments. Twelve of the thirteen English colonies in North America were founded during the reign of the Stuart kings in the seventeenth century during which time the concepts of government and liberty were heatedly and persistently debated. Thousands of pamphlets advocated positions from the divine right of kings to communism (called Levelers in seventeenth century England). To a certain degree, the colonies served as laboratories for implementing some of the ideas embodied in these political tracts. American colonists firmly believed in the necessity of government, but simultaneously had a profound distrust of government in general and individual government officials. Consequently, American colonists adopted over 200 documents that protected a wide array of rights from government abuse.

The Revolutionary movement that began in America at the end of the French and Indian War was caused in large measure by colonial perceptions that Great Britain's new imperial policy endangered American constitutional rights. For more than a dozen years, Americans denounced Parliament and the king's ministers in newspapers and broadsides and aired their grievances in petitions. When these measures failed, economic sanctions in the form of embargoes on imports and exports attempted to pressure Parliament to change its policies. Occasionally well-orchestrated or spontaneous acts of violence erupted. Eventually, the colonies decided that only through independence could their rights be maintained.

While breaking away from British rule, Americans realized that they must provide new forms of government. Even Thomas Paine, the epitome of a revolutionary firebrand, in his revolutionary pamphlet *Common Sense* published in January 1776, suggested model state and continental constitutions. In mid-May 1776, two months before a formal declaration of independence was approved, the Second Continental Congress recommended that Americans write new state constitutions amenable to the people rather than to the Crown. Between 1776 and 1784 Americans adopted state constitutions that were often prefaced with a declaration of rights. Those states without a prefatory bill of rights, usually embedded a variety of rights within the body of their constitutions.

Once Americans declared their independence, they sought to reestablish security for their liberties under new state constitutions with limited governments. According to the freeholders of Concord, Massachusetts, “A Constitution in its Proper Idea intends a System of Principles Established to Secure the Subjects in the Possession and enjoyment of their Rights and Privileges, against any Encroachments of the Governing part.” Americans thoroughly disagreed with Alexander Pope, the famous eighteenth-century English poet-satirist, in his maxim, “For forms of government let fools contest,/That which is best administered is best.” Rather, most Americans agreed with John Adams’ observation that “Nothing is more certain from the history of nations, and the nature of man, than some forms of government are better fitted for being well administered than others.”

For the most part, American political leaders relished the opportunity offered them. John Adams believed that he and his fellow revolutionaries had “been sent into life, at a time when the greatest law-givers of antiquity would have wished to have lived. How few of the human race,” Adams wrote, “have ever enjoyed an opportunity of making an election of government.” When before, Adams asked, “had three millions of people full of power and a fair opportunity to form and establish the wisest and happiest government that human wisdom can contrive?”

In creating their new state constitutions, Americans felt obliged to find new guarantees for liberty. No longer would the old balanced government of king, lords, and commons work—two of these three parts of government had been lopped off. Republicanism became the guiding principle as sovereignty was transferred from the Crown and Parliament to the people acting in their representative assemblies.

In declaring their independence from Great Britain, Americans expressed the importance of government in protecting the rights of individuals. In June 1776, a Virginia Revolutionary convention adopted a new state constitution preceded by a declaration of rights that proclaimed

That all Men are by Nature equally free and independent, and have certain inherent Rights, of which, when they enter into a State of Society, they cannot by any Compact, deprive or divest their Posterity; namely, the Enjoyment of Life and Liberty, with the Means of acquiring and possessing Property, and pursuing and obtaining Happiness and Safety.

The Virginians also declared that all power was vested in and consequently derived from the people, and that government officials were the trustees and servants of the people and were responsible to them at all times. If government failed to perform properly, the people could set about altering it by peaceable means first but by force if the gov-

ernment proved to be unresponsive to their will. The Maryland and New Hampshire bills of rights went so far as to assert that “The doctrine of non-resistance, against arbitrary power and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.”

In July 1776, the delegates to the Second Continental Congress, meeting in Philadelphia, pronounced these same self-evident truths: “That all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.” According to the Declaration of Independence, the colonists had suffered “a long train of abuses and usurpations.” Rather than submit to this “absolute Despotism,” Americans felt that it was their right and their duty, “to throw off such Government, and to provide new Guards for their future security.”

The new American state constitutions created governments with real power lodged in state assemblies—the bastions of popular rights. Little authority was allotted to either the upper houses of the legislatures or to the state governors; state judiciaries possessed little independence, since they were elected either by the people or appointed by the legislature, generally for short terms of office. Many of the states followed Virginia’s example and added bills of rights to their constitutions. In January 1787, New York adopted a statutory bill of rights guaranteeing many rights not specifically protected in its constitution. All of the rights that came to be embodied in the U.S. Bill of Rights were incorporated in one or another of the state bills of rights. Even though most state bills of rights and constitutions were written and put into effect by state legislatures and not by special, popularly elected ratifying conventions or by popular vote, they were viewed as “declarations of principle” drawn from natural rights that were inherent and inalienable. Americans believed that these rights existed even in the absence of written bills of rights, which merely made explicit what had developed in the colonies before independence. But because written bills of rights appeared to limit government beyond any doubt, Americans felt more comfortable with them. Since these written protections were not viewed as ordinary legislation, they were not as liable to repeal by subsequent legislatures.

When on 7 June 1776 Richard Henry Lee presented Congress with Virginia’s resolution for American independence, Congress responded by creating three committees: one to draft a declaration of independence, one to seek foreign assistance and alliances, and one to draft articles of confederation binding the colonies together. It would take Congress almost a year and a half to agree on the Articles of Confederation which Congress then sent to the states in mid-November 1777

to obtain the necessary unanimous ratification of the state legislatures. Most of the states ratified the Articles fairly quickly but a few held out seeking specific changes. The last state (Maryland) adopted the Articles in February 1781 and its congressional delegates signed the engrossed Articles on 1 March 1781.

Several states submitted amendments to the Articles along with their formal ratification documents. The Continental Congress rejected all of these proposed amendments. (See CDR, 95–137.) Starting in February 1781, Congress itself proposed amendments under the provisions of Article XIII that required congressional approbation followed by the unanimous approval of the state legislatures. During the next five years, a variety of amendments either died in Congress or failed to achieve the unanimous ratification of the states. Some amendments neared the unanimity threshold; but, despite the widespread support for granting Congress more powers (especially to regulate commerce and levy and collect taxes), no amendments to the Articles were adopted. (See CDR, 139–74.)

At the same time that calls went out to revise the Articles, demand spread for revision of various state constitutions. Some governments were too conservative to meet the challenges posed by the severe post-war depression; others had reacted with radical relief programs that threatened the very foundations of private property. The primary objection to state constitutions was the overriding dominance of state legislatures—particularly the lower houses of assembly. The Revolutionary enthusiasm that Americans harbored for republicanism failed to alert them to the danger inherent in the tyranny of the legislature. Just as Parliament had declared its supremacy and threatened the rights of the colonies, so too did state assemblies flex their constitutionally delegated authority, much to the dismay of many freemen. Sometimes state legislatures overzealously tried to protect their privileges at the expense of liberty. South Carolina affords the best example of this kind of legislative tyranny. But other kinds of legislative tyranny appeared also in response to demands for debtor relief during the hard times of the mid-1780s.

Beginning in September 1786, when a mob of angry farmers surrounded the New Hampshire legislature in Exeter and demanded the abolition of all debts and the issuance of state paper money to be loaned to farmers to help them weather the economic depression, violence or the threat of violence surfaced throughout the country. Again and again state legislatures succumbed to the desperate pleas of hard-pressed farmers. In Massachusetts, where the legislature remained unresponsive, debtor farmers closed the county courts in an effort to quell

the growing number of foreclosures. Shays's Rebellion struck fear in many Americans who saw the fabric of society being torn asunder before their very eyes. As two courthouses burned in backcountry and tidewater Virginia, George Washington felt that there were combustibles in every state ready to be ignited by a single spark.

Next door to rebellion-riddled Massachusetts, Rhode Island farmers turned not to violence but to the ballot box. A peaceful revolution occurred in April 1786 as the Country Party, running on the platform "To Relieve the Distressed," won large majorities in both houses of the legislature and elected their candidates for governor and lieutenant governor. Starting the next month, Rhode Island implemented the most radical economic program of any state. Widely reprinted newspaper reports announced that the Rhode Island legislature was considering socialistic and communistic proposals that would either transfer ownership of most private property to the state government or redistribute real estate equally among heads of households every thirteen years.

Something had to be done to limit the state legislatures and invigorate Congress. Without a strengthened general government, the union would disintegrate into either civil war or anarchy, both of which would eventually lead to despotism. Republicanism and the principles of Revolution were threatened—a danger most forcefully stated in an extract of a letter printed in the *Albany Gazette* on 21 June 1787, and reprinted within a month at least fourteen times. Americans had too easily succumbed to demagogues. The country had fallen victim to a "prevailing rage of excessive democracy. This fashionable contempt of government—of public and private faith"—would elevate one Shays after another, because the American people had been "prepared for political idolatry." It was "Shayism," not Shays, that the author feared. Americans were warned to beware of the "intriguer, who under the specious terms of *virtue*, *liberty* and *public spirit* inculcates opinions infinitely more dangerous of government than the arms of an avowed rebel." Politicians in general, and the delegates to the Constitutional Convention in particular, were advised "to begin to consider mankind *as they are* and not *what they ought to be*. . . . *We are what we are*, in gross, blind and inconsistent—naturally averse to government."

The *Albany Gazette* letter writer insisted that he was no "enemy to freedom." But to secure liberty "inviolate to the people," licentiousness had to be banished and replaced with "a sacred regard to the laws—a reverential submission to authority—an impartial and sometimes a severe administration of justice." Without this change in attitude, liberty—that "invaluable jewel"—would be lost, because

When the laws are vague—when the administration of justice becomes feeble and irregular—when political empirics, ever courting popularity, give to a distempered multitude whatever their depraved appetites may crave—when the people are wallowing in the superfluity of liberty—then, unless their eyes were darkened, would they see tyranny in his horrid form, brandishing the bloody scourge and entering the door—then, unless they were deafer than adders, would they hear the chain of slavery clanging in their ears.

It was in this atmosphere of disgust over “the superfluity of liberty” and the “excesses of democracy” that the Constitutional Convention assembled in May 1787.

The delegates to the Constitutional Convention did not come together to protect the rights of Americans from the powers of their general government. Most delegates had two other purposes in mind: they wanted to strengthen the powers of their general government either by amending the Articles of Confederation or by creating an entirely new constitution with a federal government armed with coercive power over the states and their citizens, and, equally important, they wanted to limit the powers of state governments dominated by popularly elected assemblies that enacted legislation demanded by the majority of voters but that all too often violated the rights of the minority—the minority meaning the wealthy. James Madison carried this view further than other delegates were prepared to go. On 24 October 1787, he wrote to Thomas Jefferson that

A constitutional negative on the laws of the States seems equally necessary to secure individuals agst. encroachments on their rights. The mutability of the laws of the States is found to be a serious evil. The injustice of them has been so frequent and so flagrant as to alarm the most stedfast friends of Republicanism. I am persuaded I do not err in saying that the evils issuing from these sources contributed more to that uneasiness which produced the Convention, and prepared the public mind for a general reform, than those which accrued to our national character and interest from the inadequacy of the Confederation to its immediate objects.

Focused on these goals, it is not surprising that the Constitutional Convention failed to propose a federal bill of rights. Only through strengthening the powers of its central government and restricting the licentiousness of its people and state assemblies would the nation preserve the principles of the Revolution. An article in the *Pennsylvania Gazette*

on 5 September 1787, declared that 1776 would be remembered for its revolution against an arbitrary, tyrannical imperial government; while 1787 would be remembered for a revolution in favor of government.

Finally, on 21 February 1787, Congress called a constitutional convention to meet in Philadelphia in May 1787 to revise and amend the Articles. When the delegates achieved a quorum, the Virginia delegation took the lead and proposed an entirely new system of government. Despite the opposition of some delegates who wanted merely to propose amendments to the Articles of Confederation, the Convention agreed to debate the Virginia Plan and in September 1787 submitted an entirely new form of government to the states for their approval.

When the Constitutional Convention adjourned on 17 September 1787, it sent the Constitution to the Confederation Congress in New York City with the request that the new form of government be forwarded to the states for their ratification. Congress read the Constitution on 20 September and assigned the 26th for its consideration.

Federalists overwhelmingly controlled Congress, but the handful of Antifederal delegates took the lead against the Constitution. Nathan Dane of Massachusetts asked that the document be sent to the states with acknowledgment that the delegates to the Constitutional Convention had violated both their instructions and the Articles of Confederation. Federalists opposed Dane, arguing that the Constitution should be sent to the states with congressional approbation.

Richard Henry Lee of Virginia proposed that the Constitution be forwarded to the states with an accompanying bill of rights. In introducing his bill of rights, Lee maintained that

It having been found from Universal experience that the most express declarations and reservations are necessary to protect the just rights and liberty of mankind from the silent, powerful, and ever active conspiracy of those who govern—And it appearing to be the sense of the good people of America by the various Bills or Declarations of rights whereon the governments of the greater number of the States are founded, that such precautions are proper to restrain and regulate the exercise of the great powers necessarily given to Rulers—In conformity with these principles, and from respect for the public sentiment on this subject it is submitted That the new Constitution . . . be bottomed upon a declaration, or Bill of Rights, clearly and precisely stating the principles upon which this Social Compact is founded.

Lee proposed that freedom of religion, freedom of the press, the right to assemble, and the right to petition be protected. In judicial matters,

he wanted due process of law guaranteed as well as the right to a trial by a jury drawn from the vicinage (locality) in both criminal and civil cases. Excessive bail and fines, cruel and unusual punishments, and unreasonable searches and seizures should be prohibited. Federal elections should be free and frequent, and standing armies in peacetime should be prohibited unless approved by a two-thirds majority in both houses of Congress.

After considerable debate, both sides agreed on 28 September to send the Constitution to the states with neither approbation nor disapprobation and to strike the debate over the Constitution—including Lee’s bill of rights—from the journals. Federalists, who could have easily outvoted their adversaries, were thereby able to hide from the public the fact that Congress was divided over the Constitution. Federalists wanted the states to act on the document as it was written by the Constitutional Convention. If Congress amended the new Constitution, James Madison asserted, there would be two plans before the states. “Some will accept one & some another, this will create confusion.” Antifederalists, on the other hand, were able to deny the Constitution the endorsement of Congress. They knew that the debate over a federal bill of rights would soon erupt in the press, where they would try to convince the public of the necessity of restrictions on federal power.

Immediately upon the adjournment of the Constitutional Convention, Antifederalists began their campaign against the Constitution because of its omission of a bill of rights. George Mason gave Elbridge Gerry a copy of his objections, which began with a thunderous “There is no Declaration of Rights.” Mason also met with Philadelphia Antifederalists and let them make copies of his objections. Before long these objections circulated throughout the country in manuscript form. Between 21 and 23 November, the objections were independently printed three times—once in a Boston newspaper and twice in newspapers in Virginia; and within two months they were reprinted nationwide in more than twenty-five newspapers, in several pamphlet anthologies, in the Philadelphia *American Museum*, a nationally circulated magazine, and as broadsides enthusiastically distributed by Antifederalists.

Richard Henry Lee sent copies of the amendments he had proposed in Congress to correspondents in Massachusetts, Pennsylvania, and Virginia. On 5 October 1787, in a letter to Samuel Adams, the old revolutionary who was now president of the Massachusetts Senate, Lee wrote of the importance of protecting individual liberties: “The corrupting power, and its insatiable appetite for increase, hath proved the necessity, and procured the adoption of the strongest and most express dec-

larations of that *Residuum* of natural rights, which is not intended to be given up to Society, and which indeed is not necessary to be given for any good social purpose.”

By the end of September 1787, the Antifederal minority of the Pennsylvania Assembly publicly asked their constituents whether they were willing to give up freedom of the press and trial by jury and “whether in a plan of government any declaration of rights should be prefixed or inserted.” “Centinel,” Pennsylvania’s most prominent Antifederal essayist, answered the assemblymen’s questions by asking his readers to compare the Pennsylvania Declaration of Rights of 1776 with the new federal Constitution before they surrendered their “great and valuable privileges up forever.” “All the blessings of liberty and the dearest privileges of freemen,” he asserted, were “now at stake” and depended on their actions.

In New York, “Brutus” led the fight. Reviewing the natural rights philosophy espoused by many Americans and used to justify independence from Great Britain, “Brutus,” argued in the second of his sixteen essays that

The common good . . . is the end of civil government, and common consent, the foundation on which it is established. To effect this end, it was necessary that a certain portion of natural liberty should be surrendered, in order, that what remained should be preserved: how great a proportion of natural freedom is necessary to be yielded by individuals, when they submit to government, I shall not now enquire. So much, however, must be given up, as will be sufficient to enable those, to whom the administration of the government is committed, to establish laws for the promoting the happiness of the community, and to carry those laws into effect. But it is not necessary, for this purpose, that individuals should relinquish all their natural rights. Some are of such a nature that they cannot be surrendered. Of this kind are the rights of conscience, the right of enjoying and defending life, &c. Others are not necessary to be resigned, in order to attain the end for which government is instituted, these therefore ought not to be given up. To surrender them, would counteract the very end of government, to wit, the common good. From these observations it appears, that in forming a government on its true principles, the foundation should be laid . . . by expressly reserving to the people such of their essential natural rights, as are not necessary to be parted with.

These principles were fundamental and were embodied “in all the constitutions of our own states . . . when the pulse of liberty beat high” just

a decade earlier, “Brutus” asserted. Now, however, he was astonished “that this grand security, to the rights of the people, is not to be found” in the proposed Constitution. Federalists were clearly on the defensive; they needed an explanation for their failure to produce a bill of rights.

During the first week of October 1787, Pennsylvanians campaigned for their elections to the state Assembly. On 6 October, James Wilson—Pennsylvania’s most prominent lawyer and a signer of the Declaration of Independence and one of the most influential delegates to the Constitutional Convention—gave the first public explanation of the new Constitution by a former delegate to that Convention. Wilson faced the issue squarely. Americans, he said, had to understand the basic difference between the state constitutions and the Constitution of the United States.

When the people established the powers of legislation under their separate governments, they invested their representatives with every right and authority which they did not in explicit terms reserve; and therefore upon every question, respecting the jurisdiction of the house of assembly, if the frame of government is silent, the jurisdiction is efficient and complete. But in delegating foederal powers, another criterion was necessarily introduced, and the congressional authority is to be collected, not from tacit implication, but from the positive grant expressed in the instrument of union. Hence it is evident, that in the former case every thing which is not reserved is given, but in the latter the reverse of the proposition prevails, and every thing which is not given, is reserved.

Once Antifederalists realized this important distinction, Wilson believed they would accept the omission of a federal bill of rights. Furthermore, he argued, a federal bill of rights would be dangerous, because it would imply that the federal government had “some degree of power” in every area, even though no specific powers were delegated.

James Madison agreed with Wilson. In a letter to Thomas Jefferson on 17 October 1787, Madison asserted that he favored a bill of rights if one could be written without giving the federal government enormous powers by implication. If Congress was prohibited from infringing upon the freedom of the press, for instance, it would be able to assume authority to regulate the press in “appropriate ways.” Rights would be better protected if Congress was limited to delegated powers, Madison said; a bill of rights would only open a congressional door to implied powers.

Federalists throughout America adopted Wilson’s theory of reserved powers as the “official” explanation for the lack of a federal bill of

rights. Antifederalists attacked it. In the *Massachusetts Gazette* of 14 January 1788, "Agrippa," called the reserved powers theory "a mere fallacy, invented by the deceptive powers of Mr. Wilson." Arthur Lee of Virginia, then serving in New York City as a member of the Confederation's Board of Treasury, accused Wilson of sophistry. In the first of his six "Cincinnatus" essays, published in the *New York Journal* on 1 November 1787, Lee called Wilson's quaint conundrum "a distinction without difference." Why should Americans accept Wilson's "play on words" when a real safeguard could easily have been incorporated into the new Constitution just as it had been in the Articles of Confederation? Why was this important provision stipulating the federal-state relationship omitted from the new Constitution? Why was this vital relationship left to assumption and interpretation?

Antifederalists found Wilson's argument flawed by the prohibitions on the federal government incorporated in the Constitution itself. Writing to Samuel Adams on 27 October, Richard Henry Lee argued that every one of the constitutional restrictions on Congress "proves the Rule in Conventional ideas to be, that what was not reserved was given." Thomas Jefferson, serving in Paris as U.S. minister to France, wrote to James Madison in December 1787 that Wilson's theory was "a gratis dictum, opposed by strong inferences from the body of the instrument." In early November "Federal Farmer," the most influential Antifederal pamphleteer, asserted that the ninth and tenth sections in Article I of the proposed Constitution (those sections that limit the actions of the state legislatures and Congress) "are no more nor less, than a partial bill of rights." He encouraged his readers to extend this guarantee further "as a part of this fundamental compact between the people of the United States and their federal rulers."

Only occasionally did Federalists come to Wilson's aid with reasoned arguments. More often than not, they merely praised him and accepted his interpretation. In the Boston *Independent Chronicle* of 27 December 1787, "Remarker," maintained that "notwithstanding all that hath been said of it," the theory of reserved powers was "perfectly true." The Convention's omission of a bill of rights "was wisdom itself, because it implies clearly that the people who are at once the *source* and *object* of power, are already in full possession of all the rights and privileges of freemen. Let the people retain them forever."

In *The Federalist* No. 44, James Madison attempted to explain why certain rights were explicitly protected in the Constitution while most others were not. He admitted that bills of attainder and *ex post facto* laws were already contrary to the social compact theory, to principles of sound legislation, and to some of the state bills of rights and consti-

tutions. Nevertheless, Madison argued, “additional fences against these dangers ought not to be omitted. Very properly, therefore, have the Convention added this constitutional bulwark in favor of personal security and private rights.” Madison did not explain why it was proper to safeguard these rights but not others. Despite the reserved powers theory, Federalists realized that the lack of a federal bill of rights presented the major obstacle to the ratification of the Constitution.

Pennsylvania was the first state to call and hold a ratifying convention. Weeks before that convention assembled on 20 November 1787, it was apparent that two-thirds of the delegates supported the Constitution. Consequently the outcome of the convention was never in doubt. Because Federalists did not wish to give the impression of unfairness, they allowed Antifederalists almost a month for the ratification debate.

Federalists maintained that the Constitution had to be adopted *in toto* or rejected completely. The convention had no authority to propose amendments or ratify conditionally. Federalists called for a complete adoption of the Constitution to revive the economy, restore America’s honor, and preserve the Union. The lack of a federal bill of rights, they argued, presented no danger. Quite the contrary—a bill of rights would endanger liberties because all rights could not be enumerated. What would happen to those rights that were omitted? Would they be forfeited? James Wilson again led the Federalist argument: “A bill of rights annexed to a constitution is an enumeration of the powers reserved,” he declared. “If we attempt an enumeration, everything that is not enumerated is presumed to be given. The consequence is, that an imperfect enumeration would throw all implied power into the scale of the government; and the rights of the people would be rendered incomplete.”

Federalist Thomas McKean, chief justice of the Pennsylvania Supreme Court, argued that bills of rights were first written to protect the liberties of the people from all-powerful feudal kings. A bill of rights had no place in a republic where the people, either directly or indirectly, elected all officeholders. Did the people, asked McKean, need a bill of rights to protect themselves from themselves? No, he answered. If the people were dissatisfied with their government, they possessed the power to alter it; and the new Constitution provided a means of enacting amendments.

The Federalist No. 84, written by Alexander Hamilton, would reiterate this argument. Bills of rights, Hamilton declared,

have no application to constitutions professedly founded upon the power of the people, and executed by their immediate representatives and servants. Here, in strictness, the people surrender noth-

ing, and as they retain every thing, they have no need of particular reservations. 'WE THE PEOPLE of the United States, to secure the blessings of liberty to ourselves and our posterity, do *ordain* and *establish* this constitution for the United States of America.' Here is a better recognition of popular rights than volumes of those aphorisms which make the principal figure in several of our state bills of rights, and which would sound much better in a treatise of ethics than in a constitution of government.

Antifederalists were dissatisfied with their opponents' arguments. They pointed to the general welfare clause and the necessary and proper clause to show that Congress possessed unlimited authority under the Constitution. If ever a dispute arose over whether Congress had overstepped its authority, the federal government, armed with the supremacy clause of the Constitution, would make the final decision. How could the states or the people expect fair treatment when their federal rulers possessed all power and were to be the final arbiters in disputed cases?

By 12 December, most of the issues in contention had been debated thoroughly. Before taking the final roll call, however, Antifederalist Robert Whitehill submitted petitions from 750 inhabitants of Cumberland County praying that the Constitution not be adopted without a bill of rights. Whitehill then presented a bill of rights consisting of fifteen amendments to the Constitution. The final amendment—a paraphrasing of the second article of the Articles of Confederation—specifically limited Congress to those powers expressly delegated to it in the Constitution. Whitehill moved that the convention adjourn “to some remote day” to give the people time to consider the amendments and to coordinate Pennsylvania's actions with those of other states. But Federalists discarded Whitehill's amendments (refusing even to allow them in the official journals) and the convention voted to ratify the Constitution by a vote of 46 to 23. Carrying on the battle, the minority then published its objections, including Whitehill's bill of rights, in newspapers, broadsides, and pamphlets that were circulated throughout the country.

While Pennsylvania's convention debated the Constitution, neighboring Delaware acted quickly. After only three hours of debate, the Delaware convention unanimously ratified the Constitution on 7 December. New Jersey and Georgia followed suit on 18 December and 2 January 1788, respectively. Connecticut's convention then ratified by a two-thirds majority on 9 January. Minor opposition to the Constitution

surfaced in each of these states, but delegates operated under the impression that they had to either accept or reject the new form of government in its entirety; therefore amendments were not proposed. The initial phase of the ratification process had been completed with five of the necessary nine states solidly supporting the new Constitution.

After Connecticut ratified the Constitution, nationwide attention focused on Massachusetts. As the second largest state in the Union, Massachusetts was expected to play a vital role in the ratification struggle. All opinions seemed agreed that rejection by Massachusetts would spell defeat for the new charter. Federalists could not afford to falter.

The Massachusetts ratifying convention met on 9 January 1788. It soon became evident that Antifederalists comprised a sizable majority of the delegates. Federalists labored to change the minds of lukewarm opponents of the Constitution, but after three weeks of debate they realized that if a vote were taken, the Constitution would be defeated. This desperate situation called for desperate measures.

Governor John Hancock had been elected president of the Massachusetts convention, but he had been unable to attend the sessions because of severe attack of the gout, an affliction that seemed to plague the governor whenever he faced difficult political decisions. Many (friends and enemies alike) believed that Hancock was sitting on the sidelines to gauge the political winds before he made his appearance at the convention.

When Federalists realized that they could not command enough votes to ratify the Constitution, they decided to approach Hancock, their erstwhile political enemy, for assistance. Federalist leaders proposed nine amendments to the Constitution that Hancock could present to the convention as his own. In this scheme, the convention would ratify the Constitution unconditionally but would “enjoin it upon their representatives” in the first federal Congress “to exert all their influence” to get the proposed amendments adopted. In return for his assistance, Federalists promised Hancock that they would not challenge his gubernatorial candidacy in the spring and suggested that they would back him as the first vice president of the United States. Furthermore, if Virginia refused to ratify the Constitution, George Washington would be ineligible for the presidency, and Hancock would be his obvious replacement.

The Federalist bait was tempting. Hancock’s gout improved enough to allow him to attend the convention and propose “his” amendments, which convinced a sufficient number of wavering Antifederalists that the Constitution should be adopted and that, with the support of the remain-

ing state conventions, appropriate safeguards would be proposed by Congress and adopted by the state legislatures as provided in Article V of the Constitution.

When the Bay State narrowly approved the new basic law (187 to 168), Federalists nationwide felt an immediate sense of relief. A week after Massachusetts' ratification, James Madison wrote to George Washington that "The amendments are a blemish, but are in the least Offensive form." To George Nicholas, Madison averred that "the plan of Massts. is unquestionably the Ultimatum of the foederalists." Antifederalists such as Patrick Henry argued that Massachusetts had "put the cart before the horse." After seeing the Massachusetts amendments, Thomas Jefferson changed his mind about the best procedure to follow in ratifying the Constitution. "My first wish," he wrote, "was that 9 states would adopt it in order to ensure what was good in it, & that the others might, by holding off, produce the necessary amendments. but the plan of Massachusetts is far preferable, and will I hope be followed by those who are yet to decide." As it turned out, Jefferson's wish came true; six of the remaining seven states used the Massachusetts model of ratifying the Constitution unconditionally while proposing recommendatory amendments. Without this technique of ratification, the Constitution never would have been adopted.

Maryland and South Carolina became the seventh and eighth states to ratify in April and May 1788 respectively. With their action, only one more state ratification was needed to adopt the Constitution. As the conventions of Virginia, New Hampshire, and New York began meeting in June, most people presumed that New Hampshire would follow Massachusetts' example, thus providing the ninth ratification. But even if nine states ratified and the Constitution were declared adopted, a viable Union would be unthinkable without New York and Virginia—two states where Antifederalism was strong and demand for a bill of rights was widespread.

George Washington's willingness to serve in the Constitutional Convention and a general feeling among Virginians that the Confederation government ought to be strengthened combined to produce a predilection in the Old Dominion to accept whatever the Constitutional Convention proposed. But after reading the Constitution and listening to the public debate, many Virginians suspected that the delegates to the Convention had gone too far. Amendments would be needed to clarify the federal-state relationship and to guarantee the rights of individuals. Most important would be the question of when amendments should be added to the Constitution—before or after the state ratified. On the eve of the elections to the state convention, these apprehen-

sions were eloquently stated by a writer in the *Virginia Independent Chronicle* calling himself “The Impartial Examiner.” The “Examiner” asked his fellow Virginians a crucial question: “can any one think that there is no medium between want of power, and the possession of it in an unlimited degree? Between the imbecility” of the Articles of Confederation and “the sweeping jurisdiction” of the new Constitution? Couldn’t the federal government be given all the requisite power over commerce and foreign affairs but the states left competent to rule in the everyday concerns of the people? Some limitation had to be placed on federal rulers so that personal liberties would be protected, concluded the “Examiner.” The 170 delegates to the Virginia convention would wrestle with this problem when they met in June 1788.

As the Virginia convention assembled, neither Federalists nor Antifederalists were certain which side had a majority. Federalists apparently had elected a few more delegates than their opponents, but no one knew exactly how the fourteen delegates from the District of Kentucky would vote. Only eight states had ratified; therefore the magnet of an already functioning government would not pull Virginia into the new federal orbit. Despite this uncertainty, Virginians could agree upon one thing: the new government would not survive unless Virginia joined it.

For three weeks, Antifederalists led by Patrick Henry, George Mason, William Grayson, James Monroe, and John Tayler attempted to demonstrate the dangers inherent in the Constitution; while James Madison, Edmund Pendleton, George Nicholas, Henry Lee, John Marshall, Francis Corbin, and, most importantly, Governor Edmund Randolph countered this Antifederalist phalanx and argued the absolute necessity of ratifying the Constitution in order to preserve the Union and perpetuate the principles of the Revolution.

Patrick Henry began his onslaught on the Constitution by asking “what right had” the Constitutional Convention “to say *We, the People*, instead of *We, the States*?” States, he said, “are the characteristics, and the soul of a confederation. If the States be not the agents of this compact, it must be one great consolidated National Government.” Henry told the convention that the new Constitution proposed a revolution in government.

Here is a revolution as radical as that which separated us from Great Britain. It is as radical, if in this transition, our rights and privileges are endangered, and the sovereignty of the States be relinquished: And cannot we plainly see, that this is actually the case? The rights of conscience, trial by jury, liberty of the press, all of your immunities and franchises, all pretensions to human rights and privileges, are rendered insecure, if not lost, by this change.

Americans “were wandering on the great ocean of human affairs” with “no landmarks to guide us.” Henry warned his fellow delegates “to be extremely cautious, watchful, [and] jealous of your liberty; for instead of securing your rights, you may lose them forever. If a wrong step be now made, the Republic may be lost forever,” for surely the new Constitution would “destroy the State Governments, and swallow the liberties of the people.”

Edmund Pendleton, president of the convention, responded that there was “no quarrel between Government and liberty; the former is the shield and protector of the latter. The war is between Government and licentiousness, faction, turbulence, and other violations of the rules of society” established to preserve liberty. “Experience and history,” said Edmund Randolph, had taught that in forming a government, the powers must be commensurate with the object. Too much power would “subject the people to the depravity of rulers.” But because “there can be no liberty without Government,” it was as dangerous to make powers too limited as too great. That powers once granted could one day be abused was, in Madison’s opinion, “no reason against conceding them” in the first place.

Henry, on the other hand, saw government as “no more than a choice among evils.” If the adoption of the new Constitution was viewed as “a little or a trifling evil,” then the convention ought to adopt it. But, he argued, if “its adoption may entail misery on the free people of this country, I then insist, that rejection ought to follow.”

The most serious Antifederalist concern in the convention was the lack of a federal bill of rights. Expounding James Wilson’s theory to counter this concern, Federalists argued that the Constitution created a federal government of delegated powers, that Congress could legislate only when the Constitution authorized it, and that all powers not delegated were reserved to the states.

Antifederalists, however, referred to the general welfare clause, the necessary and proper clause, and the supremacy clause of the Constitution. Taken together, these provisions rendered state bills of rights useless in confrontations with the federal government. George Mason pointed out that when the people of Virginia formed their own state constitution, they also adopted a Declaration of Rights. Whereas Virginians “would not trust their own citizens, who had a familiarity of interest with themselves,” with the new federal Constitution, they would give up a great part of their rights to a far-off government controlled by a majority of Northerners totally unsympathetic to the South. Mason wanted a clause in the Constitution reserving to the states all powers not delegated to the federal government. Such a clause, he said, existed

in the Articles of Confederation, even though the Articles provided for a far weaker general government. “Why not then have a similar clause in this Constitution?” “Unless this were done, many valuable and important rights would be concluded to be given up by implication,” said Mason, adding that he saw no “distinction between rights relinquished by a positive grant, and [those] lost by implication. Unless there were a Bill of Rights, implication might swallow up all our rights.”

Patrick Henry was also dissatisfied with Federalists’ arguments. “A Bill of Rights,” he said, “is a favourite thing with” Virginians, as it was with the people of the other states. If the unlimited, undefined powers of Congress were unchecked by a bill of rights, he told the convention, the government of Virginia would be an absurdity. It would give up all its powers over taxation and the military to the general government “without check, limitation, or controul.” The people of Virginia would still have their Declaration of Rights said Henry, but it would now check a

weakened, prostrated, enervated State Government! You have a Bill of Rights to defend you against the State Government, which is bereaved of all power; and yet you have none against Congress, though in full and exclusive possession of all power! You arm yourselves against the weak and defenceless, and expose yourself naked to the armed and powerful. Is not this a conduct of unexampled absurdity?

In response to an overture from the Antifederal Committee of New York City, an Antifederal committee of the Virginia convention, chaired by George Mason, wrote a letter on 9 June asking the New Yorkers to appoint a delegation from their convention to meet one from Virginia “to agree on the necessary Amendments” to the Constitution.

The interstate communication was so secret that it was not entrusted to the mail for fear that Federalists would intercept it. Philadelphia Antifederal printer Eleazer Oswald carried the letter from Richmond to John Lamb, the coordinator of Antifederal activities in New York City. Lamb forwarded the Virginia letter by courier to Governor George Clinton in Poughkeepsie, where the New York convention had just convened. Clinton wrote to Lamb telling him that the Antifederalists in the New York convention had appointed a committee of correspondence chaired by Robert Yates. Clinton said that “It gives me and them sensible Pleasure to learn that the Friends to the Liberties of our Country to the Southward are equally anxious with those who are not ashamed of that unfashionable Name here.” A letter from Yates’s committee was enclosed, stating that New York Antifederalists were pleased to find the

Virginians in agreement with them on amendments that “stand on the Broad Basis of securing the Rights and equally promoting the Happiness of every Citizen of the Union.” No final list of amendments had yet been drafted by the New York convention, but a preliminary list was sent. Unfortunately for the opponents of the Constitution, the time required for communication between Richmond and Poughkeepsie made it impossible to coordinate their activities.

Throughout the entire Virginia convention, the overriding issue was whether the delegates would ratify the Constitution with previous, conditional amendments or subsequent, recommendatory ones. All of the delegates could agree that the Constitution was imperfect, but Federalists maintained that the new government should first be established and tested before amendments were proposed and adopted. Antifederalists objected to this appeal for delay. Patrick Henry boldly asserted that he would “never agree to the proposed plan without Amendments.” “At present,” he argued,

we have our liberties and privileges in our own hands. Let us not relinquish them. Let us not adopt this system till we see them secured. There is some small possibility, that should we follow the conduct of Massachusetts, amendments might be obtained. There is small possibility of amending any Government; but . . . shall we abandon our most inestimable rights, and rest their security on a mere possibility?

Henry continued by asking the delegates whether their “rage for novelty [was] so great, that you are first to sign and seal, and then to retract. Is it possible to conceive a greater solecism? . . . You agree to bind yourselves hand and foot—For the sake of what?—Of being unbound. You go into a dungeon—For what? To get out. Is there no danger when you go in, that the bolts of federal authority shall shut you in?” The eloquent Virginian concluded his jeremiad by observing that “reason, self-preservation, and every idea of propriety, powerfully” urged the convention to adopt the Constitution conditionally with amendments.

In response to these arguments, James Madison and Edmund Randolph maintained that “previous amendments are but another name for rejection. They will throw Virginia out of the Union.” Randolph asked his fellow delegates to consider the issue carefully. Many other states had adopted the Constitution expecting amendments to follow. Was it not better “to adopt and run the chance of amending it hereafter, than run the risk of endangering the Union?” The Confederation, he argued, was destroyed; if the Constitution were rejected, the Union would be dissolved; “the dogs of war would break loose, and

anarchy and discord would complete the ruin of this country.” Adoption of the Constitution with recommendatory amendments, Madison asserted, would prevent this catastrophe, and the unison of sentiments among the adopting states would assure that desired amendments would subsequently be passed. The issue was simple and momentous. Would the thirteen states “Unite freely, peaceably, and unanimously, for the security of their common happiness and liberty, or” would everything “be put in confusion and disorder!”

On 25 June, after three weeks of intense debate, the convention decided the issue. First, a vote was taken on a list of amendments proposing both guarantees for individual liberties and alterations in the structure and nature of the federal government. These amendments were defeated by a vote of 88 to 80. Then a second vote was taken, and the Constitution was ratified unconditionally, 89 to 79. Over the next two days, a committee drafted and the convention agreed to recommendatory amendments to the Constitution. It would be left to the first federal Congress to propose necessary additions that would protect basic human rights, and Virginians would play an important—and finally a decisive—role in obtaining the future Bill of Rights.

The New York convention met in Poughkeepsie on 17 June 1788, with more than two-thirds of its delegates avowedly opposed to unconditional ratification of the Constitution. New York Antifederalists criticized the Constitution for many of the same reasons advanced elsewhere. New York’s opposition also derived, in large part, from the state’s peculiar geography. Blessed with an excellent harbor and navigable rivers, the state was able to levy a tariff on imports that freed its landholders from onerous real estate taxes. Since most of the foreign goods consumed in Connecticut and New Jersey were first imported into and taxed by New York, residents of these two states grudgingly paid large sums annually into New York’s treasury. Led by Governor George Clinton, New York Antifederalists saw the new Constitution—which gave Congress alone the power to tax foreign imports—as a threat to the prosperity of their state. This argument was expressed in a candid letter from state senator John Williams of Washington County:

You will also observe . . . that the advantage of having property in a maritime state, will be reduced to an equal value with the property where there is no navigation. If this is not taking our liberty, it is certainly diminishing our property, which is equal to it. What hath kept the taxes so low in this state—the reason is obvious, our impost duties. This is a privilege Providence hath endowed us with. . . . Let our imposts and advantages be taken from us, shall we not

be obliged to lay as heavy taxes as Connecticut, Boston, &c. What hath kept us from those burthens but the privileges, which we must lose if the present proposed constitution is adopted.

But New York Antifederalists also feared the lack of protection for their basic rights. Newspapers, broadsides, and pamphlets were filled with articles that stressed the need for a bill of rights. Thus, when the state convention assembled, Antifederalist delegates opposed the Constitution out of economic self-interest, for reasons of principle, and because they felt that it threatened their liberties.

With an overwhelming majority of delegates opposed to the Constitution, New York Antifederalists bided their time. They allowed debate over each section of the Constitution, with the proviso that amendments be proposed and discussed simultaneously. For three weeks the convention debated the major parts of the new government. During that time, word arrived on 24 June that New Hampshire had ratified the Constitution, followed on 2 July by the news of Virginia's ratification. New York Federalists were buoyed. The Antifederal bloc, although outwardly unaffected, began to lose its cohesiveness as a number of conditional ratification plans were suggested.

On 2 July, Thomas Tredwell of Suffolk County eloquently stated the case for a bill of rights—the rock, he said, on which the Constitution should have rested. “No other foundation can any man lay, which will secure the sacred temple of freedom against the power of the great, the undermining arts of ambition, and the blasts of profane scoffers.” Tredwell warned his fellow Antifederalists to be wary of those who “tend to corrupt our political faith, to take us off our guard, and lull to sleep that jealousy which, we are told by all writers,—and it is proved by all experience,—is essentially necessary for the preservation of freedom.” He lamented the decline from Revolutionary ideas evidenced in the proposed basic law:

In this Constitution, sir, we have departed widely from the principles and political faith of '76, when the spirit of liberty ran high, and danger put a curb on ambition. Here we find no security for the rights of individuals, no security for the existence of our state governments; here is no bill of rights, no proper restriction of power; our lives, our property, and our consciences, are left wholly at the mercy of the legislature, and the powers of the judiciary may be extended to any degree short of almighty. Sir, in this Constitution we have not only neglected,—we have done worse,—we have openly violated, our faith,—that is, our public faith. . . . The liberties of the country are a deposit, a trust, in the hands of in-

dividuals; . . . which the possessors have no right to dispose of; they belong to our children, and to them we are bound to transmit them.

On 7 July, John Lansing, Jr., one of the three Antifederal leaders in the state convention and a former delegate to the Philadelphia Convention, read a bill of rights that was “to be prefixed to the constitution.” During the next two days, Antifederalists caucused to try to arrive at some consensus. Lansing presented the Antifederalists’ proposal on 10 July—coincidentally, a year to the day after he and fellow New York delegate Robert Yates had left the Constitutional Convention prematurely. The proposal suggested three kinds of amendments: explanatory, conditional, and recommendatory. The explanatory amendments included a bill of rights and some explanations of unclear portions of the Constitution. The conditional amendments prohibited Congress from exercising certain military, fiscal, and regulatory powers until after a second constitutional convention had considered these matters. The recommendatory amendments were “numerous and important” and were to be considered by the first federal Congress.

Federalist Abraham Bancker denounced the plan as “a gilded Rejection”; Antifederalists said that it was their “*Ultimatum*.” Debate over the proposal continued for a week as Antifederalist solidarity diminished. On 17 July, Melancton Smith, the self-proclaimed Antifederal manager of the convention, proposed that the convention declare the Constitution defective but join the other ten states and ratify. Smith also suggested that New York retain the option to withdraw from the Union if Congress within four years refused to call a second constitutional convention to consider amendments. Facing opposition from both Federalists and Antifederalists, Smith withdrew his proposal on 19 July.

From 19 to 23 July, the delegates considered a new plan for conditional ratification. The proposal called for the Constitution to be ratified “upon condition” that certain amendments, including a bill of rights, be accepted. On the twenty-third, however, Antifederalist Samuel Jones, a prominent Queens County lawyer, moved that the words “upon condition” be dropped in favor of “in full confidence.” Melancton Smith supported the change. According to the broadside report of the debates,

He was as thoroughly convinced then as he ever had been, that the Constitution was radically defective, amendments to it had always been the object of his pursuit, and until Virginia came in, he had reason to believe they might have been obtained previous to the operation of the Government. He was now satisfied they could

not, and it was equally the dictate of reason and of duty to quit his first ground, and advance so far as that they might be received into the Union. He should hereafter pursue his important and favourite object of amendments with equal zeal as before, but in a practicable way which was only in the mode prescribed by the Constitution.

Smith agreed that conditional ratification would keep New York out of the Union, thus diluting Antifederalist strength in the first federal Congress. Without New York in the new national legislature, a bill of rights would be almost impossible to obtain.

Smith's argument convinced enough Antifederalists to join Federalists in a 31-to-29 vote approving Jones's motion. A final effort to obtain a limited-term ratification failed on 24 July, and the next day an Antifederalist motion for adjournment was also defeated, 31 to 28. On 26 July, by a vote of 30 to 27, the convention ratified the Constitution with recommendatory amendments—a bill of rights and a list of structural changes to the Constitution. A circular letter to the states recommending the calling of a second constitutional convention to consider amendments was approved unanimously.

Circumstances outside the state—ratification by ten of the other twelve states—had convinced New York Antifederalists that they had to work within the first federal Congress to obtain the necessary safeguards to protect their liberties. Attention now focused on the elections to that Congress, which took place in the winter and spring of 1788–89.

To a great extent, the first federal elections was a referendum on the Constitution. Despite promises made in their state ratifying conventions, Federalists, especially in Massachusetts and New York, often denounced candidates who advocated amendments to the Constitution. In Virginia, Federalist James Madison felt that he would be defeated for election to the U.S. House of Representatives by his Antifederalist friend James Monroe in a district that had been gerrymandered to include many Antifederalist voters. Consequently, Madison promised that, if elected, he would support amendments to the Constitution in the first federal Congress. Madison was elected and fulfilled his promise to support a bill of rights.

In May 1789, Madison in a speech in the U.S. House of Representatives, announced that he planned to submit a proposal for amendments to the Constitution. On 8 June 1789 Madison introduced a collection of rights-based amendments. He, however, did not submit any amendments that would change the structure of the government under the Constitution or severely restrict the federal government's authority.

After four months of debate, Congress in September 1789 agreed to submit twelve amendments to the states for their consideration. The amendments were widely supported throughout the country and demolished the movement calling for a second constitutional convention. By mid-December 1791, the necessary three-quarters of the state legislatures had ratified ten of the twelve amendments proposed by Congress. Congress ordered the printing of the state ratifications of the amendments. On 1 March 1792, Secretary of State Thomas Jefferson forwarded this eleven-page pamphlet to the states informing them that ten of Congress' amendments had been ratified.

Symbols

FOR MANUSCRIPTS, MANUSCRIPT DEPOSITORIES,
SHORT TITLES, AND CROSS-REFERENCES

Manuscripts

FC	File Copy
MS	Manuscript
RC	Recipient's Copy

Manuscript Depositories

DNA	National Archives
M-Ar	Archives Division, Secretary of State, Massachusetts Archives
Nh-Ar	Division of Archives and Records Management, Concord (New Hampshire State Archives)
P-Ar	Pennsylvania State Archives

Short Titles

Abbot, <i>Washington, Presidential Series</i>	W. W. Abbot, Dorothy Twohig et al., eds., <i>The Papers of George Washington: Presidential Series</i> (Charlottesville, Va., 1987-).
Boyd	Julian P. Boyd et al., eds., <i>The Papers of Thomas Jefferson</i> (Princeton, N.J., 1950-).
DHFFC	Linda Grant De Pauw, Charlene Bangs Bickford, Kenneth R. Bowling et al., eds., <i>Documentary History of the First Federal Congress of the United States of America, March 4, 1789–March 3, 1791</i> (22 vols., Baltimore, 1972–2017).
DHFFE	Merrill Jensen, Robert A. Becker, and Gordon DenBoer, eds., <i>The Documentary History of the First Federal Elections, 1788–1790</i> (4 vols., Madison, Wis., 1976–1989).
Evans	Charles Evans, <i>American Bibliography</i> (12 vols., Chicago, Ill., 1903–1934).
Farrand	Max Farrand, ed., <i>The Records of the Federal Convention of 1787</i> (3rd ed., 3 vols., New Haven, 1927).

- JCC Worthington C. Ford et al., eds., *Journals of the Continental Congress, 1774–1789* . . . (34 vols., Washington, D.C., 1904–1937).
- PCC Papers of the Continental Congress, 1774–1789 (Record Group 360, National Archives).
- Rutland, *Madison* Robert A. Rutland et al., eds., *The Papers of James Madison*, Volumes VIII–XVII (Chicago and Charlottesville, Va., 1973–1991).

Cross-references to Volumes of

The Documentary History of the Ratification of the Constitution

- BoR References to the series of volumes titled Bill of Rights are cited as “BoR” followed by the volume and page number. For example: “BoR, I, 200.”
- CC References to *Commentaries on the Constitution* are cited as “CC” followed by the number of the document. For example: “CC:25.”
- CDR References to the first volume, titled *Constitutional Documents and Records, 1776–1787*, are cited as “CDR” followed by the page number. For example: “CDR, 325.”
- Mfm References to the supplements to the “RCS” volumes are cited as “Mfm” followed by the abbreviation of the state and the number of the document. For example: “Mfm:N.C. 2.” The supplemental documents for The Confederation Congress Implements the Constitution are denoted by “Mfm:Cong. 1.” All supplemental documents will be available at UW Digital Collections on the University of Wisconsin–Madison Libraries web site (<https://uwdc.library.wisc.edu>). The supplemental documents for Pennsylvania are also published in three printed volumes by the Wisconsin Historical Society Press.
- RCS References to the series of volumes titled *Ratification of the Constitution by the States* are cited as “RCS” followed by the abbreviation of the state and the page number. For example: “RCS:N.C., 200.”

**The Ratification
of the Constitution
and Bill of Rights**

BILL OF RIGHTS

[1]

I. ENGLISH PRECEDENTS

Magna Carta, 15 June 1215 (excerpts)¹

Throughout their history, Americans have viewed the Magna Carta as a symbol of limited government under the rule of law as opposed to absolute government. No other document beside the Declaration of Independence and the Constitution and the Bill of Rights is more revered by Americans. Even in the aftermath of the Revolution, Americans pointed to the Magna Carta as a foundational document that protected their rights.

Americans seldom if ever alluded to the many archaic feudalistic provisions of Magna Carta. All American colonial charters and Revolutionary-era state constitutions, as well as the new federal Constitution of 1787 and the Bill of Rights of 1791, drew upon provisions based upon the Magna Carta. Chapter 40 of Magna Carta was also frequently cited: "To no one will We sell, to none will We deny or delay, right or justice." James Madison espoused this concept when he wrote *The Federalist* No. 51 in defense of the new federal Constitution, that "Justice is the end of government" (CC:503, p. 46).

Two key provisions of Magna Carta were most frequently incorporated into American constitutional documents. Chapter 39 provided that no man could be deprived of life, liberty, or property without a trial by a jury of his peers under the law of the land, while the feudalistic language of Chapter 12 evolved into the guarantee that taxes could not be levied without the consent of the direct representatives of the people. A few other rights in Magna Carta found their way into American constitutional documents such as just compensation for private property appropriated for government use (Chapter 28) and the prohibition against excessive fines (Chapter 55). Magna Carta also embraced the concept of free-flowing commerce.

To eighteenth-century Americans, Magna Carta was an organic instrument that guaranteed personal liberty and private property. The Stamp Act Congress of 1766 denounced various parliamentary measures that violated freedoms "confirmed by the Great Charter of English Liberty." In essence, there was a higher law that ordinary statutory law could not supersede. The new federal Constitution of 1787 would be such a higher law. It would be the Magna Carta of American liberty.

John, by the grace of God, king of England, lord of Ireland, duke of Normandy and Aquitaine, and count of Anjou, to the archbishop, bishops, abbots, earls, barons, justiciaries, foresters, sheriffs, stewards, servants, and to all his bailiffs and liege subjects, greetings.

Know that, having regard to God and for the salvation of our soul, and those of all our ancestors and heirs, and unto the honor of God and the advancement of his holy Church and for the rectifying of our realm. . . .

12. No *scutage* nor aid shall be imposed on our kingdom, unless by common counsel of our kingdom. . . .

28. No constable or other bailiff of ours shall take corn or other provisions from anyone without immediately tendering money therefor, unless he can have postponement thereof by permission of the seller. . . .

39. No freemen shall be taken or imprisoned or *disseised* or exiled or in any way destroyed, nor will we go upon him nor send upon him, except by the lawful judgment of his peers or by the law of the land.

40. To no one will we sell, to no one will we refuse or delay, right or justice. . . .

55. All fines made with us unjustly and against the law of the land, and all amercements, imposed unjustly and against the law of the land, shall be entirely remitted. . . .

Given under our hand—the above named and many others being witnesses—in the meadow which is called Runnymede, between Windsor and Staines, on the fifteenth day of June in the seventeenth year of our reign.

1. The text is taken from Avalon Project: <https://avalon.law.yale.edu/medieval/magframe.asp>.

English Bill of Rights, 1689¹

The seventeenth century was a tumultuous time for England. With the death of Queen Elizabeth I in 1603 without an immediate heir, James I ascended to the throne, the first of four Stuart kings. An advocate of the divine right of kings who wanted to rule like the absolutist kings on the Continent, James was soon embroiled in conflicts with Parliament over taxation and the treatment of Catholics. With James's death in 1625, his son Charles I assumed the throne. Far less politically adroit than his father, Charles experienced worsening problems with Parliament over taxation and religion. In 1642, Parliament issued its Nineteen Propositions that would have severely restricted the prerogatives of the king. Charles rejected these restrictions which triggered the English Civil War, during which Charles was executed, the monarchy and the House of Lords were eliminated, and a written constitution (the instrument of government) was adopted.

Soon, Oliver Cromwell, who had led the New Model Army against Charles, was appointed lord protector and ruled arbitrarily. After two years of chaos following Cromwell's death in 1658, the monarchy and house of lords were re-established and Charles II was invited to return from his French exile. The old conflict between king and Parliament returned with a heavier emphasis on the religious conflict. The situation worsened when Charles II died in 1685 and was succeeded by his brother James II, who was himself an acknowledged Catholic. Armed conflict occurred and James was forced into exile. James's Protestant daughter Mary and her Dutch husband William of Orange were invited to assume the throne, but only after they agreed to a Declaration of Rights that stipulated many of the violations of rights and English law by James. In 1689, the Convention Parliament passed the Declaration into a Bill of Rights

that William and Mary agreed to abide by before their assumption to the throne was accepted.

*An act for declaring the rights and liberties of the subject,
and settling the succession of the crown*

Whereas the lords spiritual and temporal, and commons assembled at *Westminster*, lawfully, fully, and freely representing all the estates of the people of this realm, did upon the thirteenth day of *February*, in the year of our Lord one thousand six hundred eighty eight, present unto their Majesties, then called and known by the names and stile of *William* and *Mary*, prince and princess of *Orange*, being present in their proper persons, a certain declaration in writing, made by the said lords and commons, in the words following; *viz.*

Whereas the late King *James* the Second, by the assistance of divers evil counsellors, judges, and ministers employed by him, did endeavour to subvert and extirpate the protestant religion, and the laws and liberties of this kingdom.

1. By assuming and exercising a power of dispensing with and suspending of laws, and the execution of laws, without consent of parliament.

2. By committing and prosecuting divers worthy prelates, for humbly petitioning to be excused from concurring to the said assumed power.

3. By issuing and causing to be executed a commission under the great seal for erecting a court called, *The court of commissioners for ecclesiastical causes*.

4. By levying money for and to the use of the crown, by pretence of prerogative, for other time, and in other manner, than the same was granted by parliament.

5. By raising and keeping a standing army within this kingdom in time of peace, without consent of parliament, and quartering soldiers contrary to law.

6. By causing several good subjects, being protestants, to be disarmed, at the same time when papists were both armed and employed, contrary to law.

7. By violating the freedom of election of members to serve in parliament.

8. By prosecutions in the court of King's bench, for matters and causes cognizable only in parliament; and by divers other arbitrary and illegal courses.

9. And whereas of late years, partial, corrupt, and unqualified persons have been returned and served on juries in trials, and particularly divers jurors in trials for high treason, which were not freeholders.

10. And excessive bail hath been required of persons committed in criminal cases, to elude the benefit of the laws made for the liberty of the subjects.

11. And excessive fines have been imposed; and illegal and cruel punishments inflicted.

12. And several grants and promises made of fines and forfeitures, before any conviction or judgment against the persons, upon whom the same were to be levied.

All which are utterly and directly contrary to the known laws and statutes, and freedom of this realm.

And whereas the said late King *James* the Second having abdicated the government, and the throne being thereby vacant, his highness the prince of *Orange* (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from popery and arbitrary power) did (by the advice of the lords spiritual and temporal, and divers principal persons of the commons) cause letters to be written to the lords spiritual and temporal, being protestants; and other letters to the several counties, cities, universities, boroughs, and cinque-ports, for the choosing of such persons to represent them, as were of right to be sent to parliament, to meet and sit at *Westminster* upon the two and twentieth day of *January* in this year one thousand six hundred eighty and eight, in order to such an establishment, as that their religion, laws, and liberties might not again be in danger of being subverted: upon which letters, elections having been accordingly made,

And thereupon the said lords spiritual and temporal, and commons, pursuant to their respective letters and elections, being now assembled in a full and free representative of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid; do in the first place (as their ancestors in like case have usually done) for the vindicating and asserting their ancient rights and liberties, declare;

1. That the pretended power of suspending of the laws, or the execution of laws, by regal authority, without consent of parliament, is illegal.

2. That the pretended power of dispensing with laws, or the execution of laws, by regal authority, as it hath been assumed and exercised of late, is illegal.

3. That the commission for erecting the late court of commissioners for ecclesiastical causes, and all other commissions and courts of like nature are illegal and pernicious.

4. That levying money for or to the use of the crown by pretence of prerogative, without grant of parliament, for longer time, or in other manner than the same is or shall be granted, is illegal.

5. That it is the right of the subjects to petition the King, and all commitments and prosecutions for such petitioning are illegal.

6. That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of parliament, is against law.

7. That the subjects which are protestants may have arms for their defence suitable to their conditions, and as allowed by law.

8. That election of members of parliament ought to be free.

9. That the freedom of speech, and debates or proceedings in parliament, ought not to be impeached or questioned in any court or place out of parliament.

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

11. That jurors ought to be duly impanelled and returned, and jurors which pass upon men in trials for high treason ought to be freeholders.

12. That all grants and promises of fines and forfeitures of particular persons before conviction, are illegal and void.

13. And that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, parliaments ought to be held frequently.

And they do claim, demand, and insist upon all and singular the premisses as their undoubted rights and liberties; and that no declarations, judgments, doings or proceedings, to the prejudice of the people in any of the said premisses ought in any wise to be drawn hereafter into consequence or example.

To which demand of their rights they are particularly encouraged by the declaration of his highness the prince of *Orange* as being the only means for obtaining a full redress and remedy therein.

Having therefore an entire confidence, That his said highness the prince of *Orange* will perfect the deliverance so far advanced by him, and will still preserve them from the violation of their rights, which they have here asserted, and from all other attempts upon their religion, rights, and liberties.

II. The said lords spiritual and temporal, and commons assembled at *Westminster*, do resolve, that *William* and *Mary* prince and princess of *Orange* be, and be declared, King and Queen of *England*, *France* and *Ireland*, and the dominions thereunto belonging, to hold the crown and royal dignity of the said kingdoms and dominions to them the said prince and princess during their lives, and the life of the survivor of them; and that the sole and full exercise of the regal power be only in, and executed by the said prince of *Orange*, in the names of the said prince and princess, during their joint lives; and after their deceases, the said crown and royal dignity of the said kingdoms and dominions to be to the heirs of the body of the said princess; and for default of

such issue to the princess *Anne of Denmark*, and the heirs of her body; and for default of such issue to the heirs of the body of the said prince of *Orange*. And the lords spiritual and temporal and commons do pray the said prince and princess to accept the same accordingly. . . .

1. The text is taken from *The Founders' Constitution* (5 vols., Chicago, 1987), I, chapter 14, document 6.

II. AMERICAN COLONIAL PRECEDENTS

Massachusetts Body of Liberties, 1641¹

Twenty years after its founding, Massachusetts freemen decided that they needed a law that summarized the rights that had been previously enunciated and that would restrain the discretion of magistrates to rule arbitrarily. After a lengthy debate in the legislature and in town meetings, the General Court adopted a statute proposed by Nathaniel Ward, a Puritan minister of Ipswich who had been a lawyer in England. Ward drew upon a code of laws proposed by John Cotton in 1636, the Mosaic principles of the Bible, and the common law. The document preceded the English Bill of Rights by fifty years and the U.S. Bill of Rights by 150 years. It extended rights to all Caucasian males instead of merely to the elites who were protected in earlier English documents such as the Magna Carta and the English Petition of Right. The Body of Liberties also extended certain rights to women, children, aliens, servants (including slaves), and even animals (such as horses and cows). It is considered the first English bill of rights. The document, however, also contained a list of twelve crimes punishable by death (including blasphemy, adultery, homosexuality, bestiality, manslaughter, kidnapping, treason, etc.).

To many in Massachusetts, the Body of Liberties was considered their colony's Magna Carta. However, in 1684, King Charles II revoked the Body of Liberties and replaced it with the common law. James II reinstated the Body of Liberties, which, however, was again replaced in 1691 by the colony's new charter, when Massachusetts became a royal colony.

A Coppie of the Liberties of the Massachuset Collonie in New England

The free fruition of such liberties Immunities and priveledges as humanitie, Civilitie, and Christianitie call for as due to every man in his place and proportion; without impeachment and Infringement hath ever bene and ever will be the tranquillitie and Stabilitie of Churches and Commonwealths. And the deniall or deprivall thereof, the disturbance if not the ruine of both.

We hould it therefore our dutie and safetie whilst we are about the further establishing of this Government to collect and expresse all such freedoms as for present we foresee may concerne us, and our posteritie after us, And to ratify them with our sollemne consent.

Wee doe therefore this day religiously and unanimously decree and confirme these following Rites, liberties, and priveledges concerneing our Churches, and Civill State to be respectively impartiallie and inviolably enjoyed and observed throughout our Jurisdiction for ever.

1. No mans life shall be taken away, no mans honour or good name shall be stayned, no mans person shall be arested, restrayned, banished, dismembred, nor any wayes punished, no man shall be deprived of his

wife or children, no mans goods or estaite shall be taken away from him, nor any way indammaged under Coulor of law, or Countenance of Authoritie, unlesse it be by vertue or equitie of some expresse law of the Country warranting the same, established by a generall Court and sufficiently published, or in case of the defect of a law in any partecular case by the word of god. And in Capitall cases, or in cases concerning dismembring or banishment, according to that word to be judged by the Generall Court [i.e., the colonial legislature].

2. Every person within Jurisdiction, whether Inhabitant or forreiner shall enjoy the same justice and law, that is generall for the plantation, which we constitute and execute one towards another, without partialitie or delay.

3. No man shall be urged to take any oath or subscribe any articles, covenants or remonstrance, of a publique and Civill nature, but such as the Generall Court hath considered, allowed, and required.

4. No man shall be punished for not appearing at or before any Civill Assembly, Court, Councell, Magistrate, or officer, nor for the omission of any office or service, if he shall be necessarily hindred, by any apparent Act or providenc of god, which he could neither foresee nor avoid. Provided that this law shall not prejudice any person of his just cost or damage in any civill action.

5. No man shall be compelled to any publique worke or service unlesse the presse be grounded upon some act of the generall Court, and have reasonable allowance therefore.

6. No man shall be pressed in person to any office, worke, warres, or other publique service, that is necessarily and suffitiently exempted by any naturall or personall impediment, as by want of yeares, greatnes of age, defect of minde, fayling of sences, or impotencie of Lymbes.

7. No man shall be compelled to goe out of the limits of this plantation upon any offensive warres which this Commonwealth or any of our freinds or confederats shall volentarily undertake. But onely upon such vindictive and defensive warres in our owne behalfe, or the behalfe of our freinds, and confederats as shall be enterprized by the Councell and consent of a Court generall, or by Authority derived from the same.

8. No mans Cattell or goods of what kinde soever shall be pressed or taken for any publique use or service, unlesse it be by warrant grounded upon some act of the generall Court, nor without such reasonable prices and hire as the ordinarie rates of the Countrie do afford. And if his Cattle or goods shall perish or suffer damage in such service, the owner shall be suffitiently recompenced.

9. No monopolies shall be granted or allowed amongst us, but of such new Inventions that are profitable to the Countrie, and that for a short time.

10. All our lands and heritages shall be free from all finds and licences upon Alienations, and from all hariotts,² wardships, Liveries,³ Primerseisens,⁴ yeare day and wast, Escheates,⁵ and forfeitures, upon the deaths of parents, or Ancestors, be they naturall, casual, or Juditiiall.

11. All persons which are of the age of 21 yeares, and of right understanding and meamories, whether excommunicate or condemned shall have full power and libertie to make their wills and testaments, and other lawfull alienations of their lands and estates.

12. Every man whether Inhabitant or fforreiner, free or not free shall have libertie to come to any publique Court, Councell, or Towne meeting, and either by speech or writeing to move any lawful, seasonable, and materiall question, or to present any necessary motion, complaint, petition, Bill or information, whereof that meeting hath proper cognizance, so it be done in convenient time, due order, and respective manner.

[13.] No man shall be rated here for any estaite or revenue he hath in England, or in any forreine parties till it be transported hither.

[14.] Any conveyance or Alienation of land or other estaite what so ever, made by any woman that is married, any childe under age, Ideott, or distracted person, shall be good, if it be passed and ratified by the consent of a generall Court.

15. All Covenous or fraudulent Alienations or Conveyances of lands, tenements, or any hereditaments, shall be of no validitie to defeate any man from due debts or legacies, or from any just title, clame or possession, of that which is so fradulently conveyed.

16. Every Inhabitant that is an howse holder shall have free fishing and fowling in any great ponds and Bayes, Coves and Rivers, so farre as the sea ebbes and flowes within the presincts of the towne where they dwell, unlesse the freemen of the same Towne or the Generall Court have otherwise appropriated them, provided that this shall not be extended to give leave to any man to come upon other proprietie without there leave.

17. Every man of or within this Jurisdiction shall have free libertie, not with standing any Civill power to remove both himselfe, and his familie at their pleasure out of the same, provided there be no legall impediment to the contrarie.

18. No mans person shall be restrained or imprisoned by any Authority what so ever, before the law hath sentenced him thereto, If he

can put in sufficient securitie, bayle, or mainprise, for his appearance, and good behaviour in the meane time, unlesse it be in Crimes Capitall, and Contempts in open Court, and in such cases where some expresse act of Court doth allow it.

19. If in a generall Court any miscariage shall be amongst the Assistants when they are by themselves that may deserve an Admonition or fine under 20 sh, it shall be examined and sentenced amongst themselves, If amongst the Deputies when they are by themselves, It shall be examined and sentenced amongst themselves, If it be when the whole Court is together, it shall be judged by the whole Court, and not severallie as before.

20. If any which are to sit as Judges in any other Court shall demeane themselves offensively in the Court, the rest of the Judges present shall have power to censure him for it, if the cause be of a high nature it shall be presented to and censured at the next superior Court.

21. In all cases where the first summons are not served six dayes before the Court, and the cause briefly specified in the warrant, where appearance is to be made by the partie summoned, it shall be at his libertie whether he will appeare or not, except all cases that are to be handled in Courts suddainly called upon extraordinary occasions, In all cases where there appeares present and urgent cause Any Assistant or officer apointed shal have power to make out Attaichments for the first summons.

22. No man in any suit or action against an other shall falsely pretend great debts or damages to vex his Adversary, if it shall appeare any doth so, The Court shall have power to set a reasonable fine on his head.

23. No man shall be adjudged to pay for detaining any Debt from any Crediter above eight pounds in the hundred for one yeare, And not above that rate proportionable for all somes what so ever, neither shall this be a coulour or countenance to allow any usurie amongst us contrarie to the law of god.

24. In all Trespasses or damages done to any man or men, If it can be proved to be done by the meere default of him or them to whome the trespass is done, It shall be judged no trespasse, nor any damage given for it.

25. No Summons pleading Judgement, or any kinde of proceeding in Court or course of Justice shall be abated, arested, or reversed, upon any kinde of circumstantiall errors or mistakes, If the person and cause be rightly understood and intended by the Court.

26. Every man that findeth himselfe unfit to plead his owne cause in any Court, shall have Libertie to imploy any man against whom the Court doth not except, to helpe him, Provided he give him noe fee,

or reward for his paines. This shall not exempt the partie him selfe from Answering such Questions in person as the Court shall thinke meete to demand of him.

27. If any plaintife shall give into any Court a declaration of his cause in writeing, The defendant shall also have libertie and time to give in his answer in writeing, And so in all further proceedings betwene partie and partie, So it doth not further hinder the dispatch of Justice then the Court shall be willing unto.

28. The plaintife in all Actions brought in any Court shall have libertie to withdraw his Action, or to be nonsuited before the Jurie hath given in their verdict, in which case he shall alwaies pay full cost and chardges to the defendant, and may afterwards renew his suite at an other Court if he please.

29. In all Actions at law it shall be the libertie of the plaintife and defendant by mutual consent to choose whether they will be tryed by the Bench or by a Jurie, unlesse it be where the law upon just reason hath otherwise determined. The like libertie shall be granted to all persons in Criminall cases.

30. It shall be in the libertie both of plaintife and defendant, and likewise every delinquent (to be judged by a Jurie) to challenge any of the Jurors. And if his challenge be found just and reasonable by the Bench, or the rest of the Jurie, as the challenger shall choose it shall be allowed him, and tales de circumstantibus⁶ impaneled in their room.

31. In all cases where evidence is so obscure or defective that the Jurie cannot clearely and safely give a positive verdict, whether it be a grand or petit Jurie, It shall have libertie to give a non Liquit, or a spetiall verdict, in which last, that is in a spetiall veredict, the Judgement of the cause shall be left to the Court, and all Jurors shall have libertie in matters of fact if they cannot finde the maine issue, yet to finde and present in their verdict so much as they can, If the Bench and Jurors shall so differ at any time about their verdict that either of them can not proceed with peace of conscience the case shall be referred to the General Court, who shall take the question from both and determine it.

32. Every man shall have libertie to replevy his Cattell or goods impounded, distreined, seised, or extended, unless it be upon execution after Judgement, and in paiment of fines. Provided he puts in good securitie to prosecute his replevin, And to satisfie such demands as his Adversary shall recover against him in Law.

33. No mans person shall be Arrested, or imprisoned upon execution or judgment for any debt or fine, if the law can finde competent meanes of satisfaction otherwise from his estaite, And if not his person may be arrested and imprisoned where he shall be kept at his owne charge,

not the plaintife's till satisfaction be made: unlesse the Court that had cognizance of the cause or some superior Court shall otherwise provide.

34. If any man shall be proved and Judged a common Barrator [i.e., cheat or swindler] vexing others with unjust frequent and endlesse suites, It shall be in the power of Courts both to denie him the benefit of the law, and to punish him for his Barratry.

35. No mans Corne nor hay that is in the field or upon the Cart, nor his garden stuffe, nor any thing subject to present decay, shall be taken in any distresse, unles he that takes it doth presently bestow it where it may not be imblesed nor suffer spoile or decay, or give securitie to satisfie the worth thereof if it comes to any harme.

36. It shall be in the libertie of every man cast condemned or sentenced in any cause in any Inferior Court, to make their Appeale to the Court of Assistants, provided they tender their appeale and put in securitie to prosecute it before the Court be ended wherein they were condemned, And within six dayes next ensuing put in good securitie before some Assistant to satisfie what his Adversarie shall recover against him; And if the cause be of a Criminall nature, for his good behaviour and appearance, And everie man shall have libertie to complaine to the Generall Court of any Injustice done him in any Court of Assistants or other.

37. In all cases where it appeares to the Court that the plaintife hath willingly and wittingly done wronge to the defendant in commencing and prosecuting any action or complaint against him, They shall have power to impose upon him a proportionable fine to the use of the defendant, or accused person, for his false complaint or clamor.

38. Everie man shall have libertie to Record in the publike Rolles of any Court any Testimony give[n] upon oath in the same Court, or before two Assistants, or any Deede or evidence legally confirmed there to remaine in perpetuum rei memoriam, that is for perpetuall memoriall or evidence upon occasion.

39. In all Actions both reall and personall betweene partie and partie, the Court shall have power to respite execution for a convenient time, when in their prudence they see just cause so to doe.

40. No Conveyance, Deede, or promise what so ever shall be of validitie, If it be gotten by Illegal violence, imprisonment, threatenings, or any kinde of forcible compulsion called Dures.

41. Everie man that is to Answer for any Criminall cause, whether he be in prison or under bayle, his cause shall be heard and determined at the next Court that hath proper Cognizance thereof, And may be done without prejudice of Justice.

42. No man shall be twice sentenced by Civill Justice for one and the same Crime, offence, or Trespasse.

43. No man shall be beaten with above 40 stripes, nor shall any true gentleman, nor any man equal to a gentleman be punished with whipping, unless his crime be very shamefull, and his course of life vitious and profligate.

44. No man condemned to dye shall be put to death within fower dayes next after his condemnation, unles the Court see spetiall cause to the contrary, or in case of martiall law, nor shall the body of any man so put to death be unburied 12 howers, unlesse it be in case of Anatomic.

45. No man shall be forced by Torture to confesse any Crime against himselfe nor any other unlesse it be in some Capitall case where he is first fullie convicted by cleare and suffitient evidence to be guilty, After which if the cause be of that nature, That it is very apparent there be other conspiratours, or confederates with him, Then he may be tortured, yet not with such Tortures as be Barbarous and inhumane.

46. For bodilie punishments we allow amongst us none that are inhumane Barbarous or cruell.

47. No man shall be put to death without the testimony of two or three witnesses, or that which is equivalent there unto.

48. Every Inhabitant of the Countrie shall have free libertie to search and veewe any Rooles, Records, or Regesters of any Court or office except the Councell, And to have a transcript or exemplification thereof written examined, and signed by the hand of the officer of the office paying the appointed fees therefore.

49. No free man shall be compelled to serve upon Juries above two Courts in a yeare, except grand Jurie men, who shall hould two Courts together at the least.

50. All Jurors shall be chosen continuallie by the freemen of the Towne where they dwell.

51. All Associates selected at any time to Assist the Assistants in Inferior Courts, shall be nominated by the Townes belonging to that Court, by orderly agreement amonge themselves.

52. Children, Idiots, Distracted persons, and all that are strangers, or new commers to our plantation, shall have such allowances and dispensations in any cause whether Criminall or other as religion and reason require.

53. The age of discretion of passing away of lands or such kinde of herediments, or for giving of votes, verdicts or Sentence in any Civill Courts or causes, shall be one and twentie yeares.

54. When so ever anything is to be put to vote, any sentence to be pronounced, or any other matter to be proposed, or read in any Court or Assembly, If the president or moderator thereof shall refuse to performe it, the Major parte of the members of that Court or Assembly shall have power to appoint any other meete man of them to do it, And if there be just cause to punish him that should and would not.

55. In all suites or Actions in any Court, the plaintife shall have libertie to make all the titles and claims to that he sues for he can. And the Defendant shall have libertie to plead all the pleas he can in answer to them, and the Court shall judge according to the intire evidence of all.

56. If any man shall behave himselfe offensively at any Towne meeting, the rest of the freemen then present, shall have power to sentence him for his offence, So be it the mulct or penaltie exceed not twentie shilings.

57. When so ever any person shall come to any very suddaine untimely and unnaturall death, Some Assistant, or the Constables of that Towne shall forthwith sumon a Jury of twelve free men to inquire of the cause and manner of their death, and shall present a true verdict thereof to some neere Assistant, or the next Court to be helde for that Towne upon their oath.

LIBERTIES MORE PECULIARLIE CONCERNING THE FREE MEN.

58. Civill Authoritie hath power and libertie to see the peace, ordinances and Rules of Christ observed in every church according to his word, so it be done in a Civill and not in an Ecclesiastical way.

59. Civill Authoritie hath power and libertie to deale with any Church member in a way of Civill Justice, notwithstanding any Church relation, office, or interest.

60. No church censure shall degrade or depose any man from any Civill dignitie, office, or Authoritie he shall have in the Commonwealth.

61. No Magestrate, Juror, Officer, or other man shall be bound to informe present or reveale any private crim or offence, wherein there is no perill or danger to this plantation or any member thereof, when any necessarietye of conscience binds him to secrecie grounded upon the word of god, unlesse it be in case of testimony lawfully required.

62. Any Shire or Towne shall have libertie to choose their Deputies whom and where they please for the General Court, So be it they be free men, and have taken there oath of fealtie, and Inhabiting in this Jurisdiction.

63. No Governor, Deputie Governor, Assistant, Associate, or grand Jury man at any Court, nor any Deputie for the Generall Court, shall

at any time beare his owne chardges at any Court, but their necessary expences shall be defrayed either by the Towne, or Shire on whose service they are, or by the Country in generall.

64. Everie Action betweene partie and partie, and proceedings against delinquents in Criminall causes shall be briefly and distinctly entered in the Rolles of every Court by the Recorder thereof. That such actions be not afterwards brought againe to the vexation of any man.

65. No custome or prescription shall ever prevaile amongst us in any morall cause, our meaneing is maintaine anything that can be proved to bee morrhallie sinfull by the word of god.

66. The Freemen of everie Towneship shall have power to make such by laws and constitutions as may concerne the wellfare of their Towne, provided they be not of a Criminall, but onely of a prudentiall nature. And that their penalties exceede not 20 sh. for one offence. And that they be not repugnant to the publike laws and orders of the Countrie. And if any Inhabitant shall neglect or refuse to observe them, they shall have power to levy the appointed penalties by distresse.

67. It is the constant libertie of the freemen of this plantation to choose yearly at the Court of Election out of the freemen all the Generall officers of this Jurisdiction. If they please to dischargdge them at the day of Election by way of vote. They may do it without shewing cause. But if at any other generall Court, we hould it due justice, that the reasons thereof be alleadged and proved. By Generall officers we meane, our Governor, Deputie Governor, Assistants, Treasurer, Generall of our warres. And our Admiral at Sea, and such as are or hereafter may be of the like generall nature.

68. It is the libertie of the freemen to choose such deputies for the Generall Court out of themselves, either in their owne Townes or elsewhere as they judge fittest, And because we cannot foresee what varietie and weight of occasions may fall into future consideration, And what counsells we may stand in neede of, we decree. That the Deputies (to attend the Generall Court in the behalfe of the Countrie) shall not any time be stated or inacted, but from Court to Court, or at the most but for one year. that the Countrie may have an Annuall libertie to do in that case what is most behoofefull for the best welfare thereof.

69. No Generall Court shall be desolved or adjourned without the consent of the Major parte thereof.

70. All Freemen called to give any advise, vote, verdict, or sentence in any Court, Counsell, or Civill Assembly, shall have full freedome to doe it according to their true Judgments and Consciences, So it be done orderly and inofensively for the manner.

71. The Governor shall have a casting voice whensoever an Equi vote shall fall out of the Court of Assistants, or generall assembly, So shall the presentent or moderator have in all Civill Courts or Assemblies.

72. The Governor and Deputie Governor Joyntly consenting or any three Assistants concurring in consent shall have power out of Court to reprove a condemned malefactour, till the next quarter or generall Court. The generall Court onely shall have power to pardon a condemned malefactor.

73. The Generall Court hath libertie and Authoritie to send out any member of the Comanwealth of what qualitie, condition or office whatsoever into forreine parts about any publique message or Negotiation. Provided the partie sent be acquainted with the affaire he goeth about, and be willing to undertake the service.

74. The freemen of every Towne or Towneship, shall have full power to choose yearly or for lesse time out of themselves a convenient number of fitt men to order the planting or prudential occasions of that Towne, according to Instructions given them in writeing, Provided nothing be done by them contrary to the publique laws and orders of the Countrie, provided also the number of such select persons be not above nine.

75. It is and shall be the libertie of any member or members of any Court, Councill or Civill Assembly in cases of makeing or executing any order or law, that properlie concerne religion, or any cause capitall or warres, or Subscription to any publique Articles or Remonstrance, in case they cannot in Judgement and conscience consent to that way the Major vote or suffrage goes, to make their contra Remonstrance or protestation in speech or writeing, and upon request to have their dissent recorded in the Rolles of that Court. So it be done Christianlie and respectively for the manner. And their dissent onely be entered without the reasons thereof, for the avoiding of tediousness.

76. When so ever any Jurie of trialls or Jurours are not cleare in their Judgments or consciences conserneing any cause wherein they are to give their verdict, They shall have libertie in open Court to advise with any man they thinke fitt to resolve or direct them, before they give in their verdict.

77. In all cases wherein any freeman is to give his vote, be it in point of Election, makeing constitutions and orders, or passing sentence in any case of Judicature or the like, if he cannot see reason to give it positively one way or an other, he shall have libertie to be silent, and not pressed to a determind vote.

78. The Generall or publique Treasure or any parte thereof shall never be expended but by the appointment of a Generall Court, nor

any Shire Treasure, but by the appointment of the freemen thereof, nor any Towne Treasurie but by freemen of that Towneship.

LIBERTIES OF WOEMEN

79. If any man at his death shall not leave his wife a competent portion of his estaite, upon just complaint made to the Generall Court she shall be relieved.

80. Everie married woeman shall be free from bodilie correction or stripes by her husband, unlesse it be in his owne defence upon her assault. If there be any just cause of correction complaint shall be made to Authoritie assembled in some Court, from which onely she shall receive it.

LIBERTIES OF CHILDREN

81. When Parents dye intestate, the Elder sonne shall have a doble portion of his whole estate reall and personall, unlesse the Generall Court upon just cause alleadged shall Judge otherwise.

82. When parents dye intestate, haveing noe heires males of their bodies their Daughters shall inherit as Copartners, unles the Generall Court upon just reason shall judge otherwise.

83. If any parents shall wilfullie and unreasonably deny any childe timely or convenient mariage, or shall exercise any unnaturall severitie towards them, Such children shall have free libertie to complain to Authoritie for redresse.

84. No Orphan dureing their minoritie which was not committed to tuition or service by the parents in their life time, shall afterwards be absolutely disposed of by any kindred, friend, Executor, Towneship, or Church, nor by themselves without the consent of some Court, wherein two Assistants at least shall be present.

LIBERTIES OF SERVANTS

85. If any servants shall flee from the Tiranny and crueltie of their masters to the howse of any freeman of the same Towne, they shall be there protected and susteyned till due order be taken for their relife. Provided due notice thereof be speedily given to their masters from whom they fled. And the next Assistant or Constable where the partie flying is harboured.

86. No servant shall be put of[f] for above a yeare to any other neither in the life of their master nor after their death by their Executors or Administrators unlesse it be by consent of Authoritie assembled in some Court, or two Assistants.

87. If any man smite out the eye or tooth of his man servant, or maid servant, or otherwise mayme or much disfigure him, unlesse it be by

meere casualtie, he shall let them goe free from his service. And shall have such further recompense as the Court shall allow him.

88. Servants that have served diligentlie and faithfully to the benefit of their maisters seaven yeares, shall not be sent away emptie. And if any have bene unfaithfull, negligent or unprofitable in their service, notwithstanding the good usage of their maisters, they shall not be dismissed till they have made satisfaction according to the Judgement of Authoritie.

LIBERTIES OF FORREINERS AND STRANGERS

89. If any people of other Nations professing the true Christian Religion shall flee to us from the Tiranny or oppression of their persecutors, or from famyne, warres, or the like necessary and compulsarie cause, They shall be entertayned and succoured amongst us, according to that power and prudence god shall give us.

90. If any ships or other vessels, be it freind or enemy, shall suffer shipwrack upon our Coast, there shall be no violence or wrong offered to their persons or goods. But their persons shall be harboured, and relieved, and their goods preserved in safety till Authoritie may be certified thereof, and shall take further order therein.

91. There shall never be any bond slaverie villinage or Captivitie amongst us, unles it be lawfull Captives taken in just warres, and such strangers as willingly belie themselves or are sold to us. And these shall have all the liberties and Christian usages which the law of god established in Israell concerning such persons doeth morally require. This exempts none from servitude who shall be Judged thereto by Authoritie.

OFF THE BRUITE CREATURE

92. No man shall exercise any Tirranny or Crueltie towards any brute Creature which are usuallie kept for mans use.

93. If any man shall have occasion to leade or drive Cattel from place to place that is far of[f], So that they be weary, or hungry, or fall sick, or lambe, It shall be lawful to rest or refresh them, for a competent time, in any open place that is not Corne, meadow, or inclosed for some peculiar use.

94.

1. If any man after legall conviction shall have or worship any other god, but the lord god, he shall be put to death. DUT. 13.6.10, DUT. 17.2.6, EX. 22.20

2. If any man or woeman be a witch, (that is hath or consulteth with a familiar spirit,) They shall be put to death. EX. 22.18, LEV. 20.27, DUT. 18.10

3. If any person shall Blaspheme the name of God, the father, Sonne, or Holie ghost, with direct expresse, presumptuous or high handed blasphemie, or shall curse god in the like manner, he shall be put to death. LEV. 24.15.16

4. If any person committ any wilfull murther, which is manslaughter, committed upon premeditated mallice, hatred, or Crueltie, not in a mans necessarië and just defence, nor by meere casualtie against his will, he shall be put to death. EX. 21.12, NUMB. 35.13.14, 30.31

5. If any person slayeth an other suddainely in his anger or Crueltie of passion, he shall be put to death. NUMB. 25.20.21, LEV. 24.17

6. If any person shall slay an other through guile, either by poysoning or other such divelish practice, he shall be put to death. EX. 21.14

7. If any man or woman shall lye with any beast or brute creature by Carnall Copulation, They shall surely be put to death. And the beast shall be slaine and buried and not eaten. LEV. 19.23

8. If any man lyeth with mankinde as he lyeth with a woeman, both of them have committed abhominaton, they both shall surely be put to death. LEV. 19.22

9. If any person committeth Adultery with a married or espoused wife, the Adulterer and Adulteresse shall surely be put to death. EX. 20.14

10. If any man stealeth a man or mankinde, he shall surely be put to death. EX. 21.16

11. If any man rise up by false witnes, wittingly and of purpose to take away any man's life, he shall be put to death. DUT. 19.16, 18. 19

12. If any man shall conspire and attempt any invasion, insurrection, or publike rebellion against our commonwealth, or shall indeavour to surprize any Towne or Townes, fort or forts therein, or shall treacherously and perfediouslie attempt the alteration and subversion of our frame of politie or Government fundamentallie, he shall be put to death.

95. A declaration of the Liberties the Lord Jesus hath given to the Churches.

1. All the people of god within this Jurisdiction who are not in a church way, and be orthodox in Judgement, and not scandalous in life, shall have full libertie to gather themselves into a Church Estaite. Provided they doe it in a Christian way, with due observation of the rules of Christ revealed in his word.

2. Every Church hath full libertie to exercise all the ordinances of god, according to the rules of Scripture.

3. Every Church hath free libertie of Election and ordination of all their officers from time to time, provided they be able pious and orthodox.

4. Every Church hath free libertie of Admission, Recommendation, Dismission, and Expulsion, or deposall of their officers, and members, upon due cause, with free exercise of the Discipline and Censures of Christ according to the rules of his word.

5. No Injunctions are to be put upon any Church, Church Officers or member in point of Doctrine, worship or Discipline, whether for substance or circumstance besides the Institutions of the lord.

6. Every Church of Christ hath freedome to celebrate dayes of fasting and prayer, and of thanksgiving according to the word of god.

7. The Elders of Churches have free libertie to meete monthly, Quarterly, or otherwise, in convenient numbers and places, for conferences, and consultations about Christian and Church questions and occasions.

8. All Churches have libertie to deale with any of their members in a church way that are in the hand of Justice. So it be not to retard or hinder the course thereof.

9. Every Church hath libertie to deal with any magestrate, Deputie of Court or other officer what soe ever that is a member in a church way in case of apparent and just offence given in their places. so it be done with due observance and respect.

10. Wee allowe private meetings for edification in religion amongst Christians of all sortes of people. So it be without just offence both for number, time, place, and other circumstances.

11. For the preventing and removeing of errour and offence that may grow and spread in any of the Churches in this Jurisdiction. And for the preserveing of trueith and peace in the several churches within them selves, and for the maintenance and exercise of brotherly communion, amongst all the churches in the Countrie, It is allowed and ratified, by the Authoritie of this Generall Court as a lawfull libertie of the Churches of Christ. That once in every month of the yeare (when the season will beare it) It shall be lawfull for the minesters and Elders, of the Churches neere adjoyneing together, with any other of the brethren with the consent of the churches to assemble by course in each severall Church one after an other. To the intent after the preaching of the word by such a minister as shall be requested thereto by the Elders of the church where the Assembly is held, The rest of the day may be spent in publique Christian Conference about the discussing and resolveing of any such doubts and cases of conscience concerning

matter of doctrine or worship or government of the church as shall be propounded by any of the Breetheren of that church, with leave also to any other Brother to propound his objections or answeres for further satisfaction according to the word of god. Provided that the whole action be guided and moderated by the Elders of the Church where the Assemblie is helde, or by such others as they shall appoint. And that no thing be concluded and imposed by way of Authoritie from one or more Churches upon an other, but onely by way of Brotherly conference and consultations. That the trueth may be searched out to the satisfying of every man's Conscience in the sight of god according to his worde. And because such an Assembly and the worke their of can not be duely attended to if other lectures be held in the same weeke. It is therefore agreed with the consent of the Churches. That in that weeke when such an Assembly is held. All the lectures in all the neighbouring Churches for the weeke shall be forborne. That so the publike service of Christ in this more solemne Assembly may be transacted with greater deligence and attention.

96. How so ever these above specified rites, freedoms, Immunities, Authorities and priveledges, both Civill and Ecclesiasticall are expressed onely under the name and title of Liberties, and not in the exact forme of Laws, or Statutes, yet we do with one consent fullie Authorise, and earnestly intreate all that are and shall be in Authoritie to consider them as laws, and not to faile to inflict condigne and proportionable punishments upon every man impartiallie, that shall infringe or violate any of them.

97. Wee likewise give full power and libertie to any person that shall at any time be denied or deprived of any of them, to commence and prosecute their suite, Complaint, or action against any man that shall so doe, in any Court that hath proper Cognizance or judicature thereof.

98. Lastly because our dutie and desire is to do nothing suddainlie which fundamentally concerne us, we decree that these rites and liberties, shall be Audably read and deliberately weighed at ever Generall Court that shall be held, within three yeares next insueing, And such of them as shall not be altered or repealed they shall stand so ratified, That no man shall infringe them without due punishment.

And if any General Court within these next three yeares shall faile or forget to reade and consider them as abovesaid. The Governor and Deputie Governor for the time being, and every Assistant present at such Courts shall forfeite 20 sh. a man, and everie Deputie 10 sh. a man for each neglect, which shall be paid out of their proper estate, and not by the Country or the Townes which choose them. And when

so ever there shall arise any question in any Court amonge the Assistants and Associates thereof about the explanation of these Rites and liberties, The Generall Court onely shall have power to interprett them.

1. Printed: Bruce Frohnen, ed., *The American Republic: Primary Sources* (Indianapolis, Ind., 2002), 15–22. A summary of these rights and their origins can be found in Donald S. Lutz, *A Preface to American Political Theory* (Lawrence: University Press of Kansas, 1992), chap. 3.

2. Provision of military equipment by a feif.

3. Maintenance allowance provided by a feif.

4. A tax paid by the eldest to retain title to property.

5. Inheritance tax.

6. “So many of the by-standers. The emphatic words of the old writ awarded to the sheriff to make up a deficiency of jurors out of the persons present in Court” (Henry Campbell Black, *Black’s Law Dictionary* [Revised 4th Edition, St. Paul, MN, 1968]), 1626.

Pennsylvania Charter of Liberties and Frame of Government 5 May 1682¹

In 1681 King Charles II granted William Penn a charter for a parcel of property in North America. As the sole proprietor, Penn could establish a government with virtually no limitation on his authority. Instead, Penn established a frame of government with an assembly elected by the people and a council to be elected by the assembly. Several innovative features of the frame of government included a staggered term for council members, limited terms of office, and a procedure for amendments. Penn’s charter of liberties provided for all open courts, moderate fines, grand jury indictments, jury trials by one’s peers, and religious freedom for anyone professing a belief in “one Almighty and eternal God” who is the “Creator, Upholder and Ruler of the world.”

The frame of the government of the province of Pensilvania, in America: together with certain laws agreed upon in England, by the Governor and divers freemen of the aforesaid province. To be further explained and confirmed there, by the first provincial Council that shall be held, if they see meet.

THE PREFACE

When the great and wise God had made the world, of all his creatures, it pleased him to chuse man his Deputy to rule it: and to fit him for so great a charge and trust, he did not only qualify him with skill and power, but with integrity to use them justly. This native goodness was equally his honour and his happiness; and whilst he stood here, all went well; there was no need of coercive or compulsive means; the precept of divine love and truth, in his bosom, was the guide and keeper of his innocency. But lust prevailing against duty, made a lamentable breach upon it; and the law, that before had no power over him, took

place upon him, and his disobedient posterity, that such as would not live comformable to the holy law within, should fall under the reproof and correction of the just law without, in a judicial administration.

This the Apostle teaches in divers of his epistles: "The law (says he) was added because of transgression," In another place, "Knowing that the law was not made for the righteous man, but for the disobedient and ungodly, for sinners, for unholy and prophane, for murderers, for whoremongers, for them that defile themselves with mankind, and for man-stealers, for lyers, for perjured persons," &c., but this is not all, he opens and carries the matter of government a little further: "Let every soul be subject to the higher powers; for there is no power but of God. The powers that be are ordained of God: whosoever therefore resisteth the power, resisteth the ordinance of God. For rulers are not a terror to good works, but to evil: wilt thou then not be afraid of the power? do that which is good, and thou shalt have praise of the same." "He is the minister of God to thee for good." "Wherefore ye must needs be subject, not only for wrath, but for conscience sake."²

This settles the divine right of government beyond exception, and that for two ends: first, to terrify evil doers: secondly, to cherish those that do well; which gives government a life beyond corruption, and makes it as durable in the world, as good men shall be. So that government seems to me a part of religion itself, a thing sacred in its institution and end. For, if it does not directly remove the cause, it crushes the effects of evil, and is as such, (though a lower, yet) an emanation of the same Divine Power, that is both author and object of pure religion; the difference lying here, that the one is more free and mental, the other more corporal and compulsive in its operations: but that is only to evil doers; government itself being otherwise as capable of kindness, goodness and charity, as a more private society. They weakly err, that think there is no other use of government, than correction, which is the coarsest part of it: daily experience tells us, that the care and regulation of many other affairs, more soft, and daily necessary, makeup much of the greatest part of government; and which must have followed the peopling of the world, had Adam never fell, and will continue among men, on earth, under the highest attainments they may arrive at, by the coming of the blessed *Second Adam*, the Lord from heaven. Thus much of government in general, as to its rise and end.

For particular frames and models it will become me to say little; and comparatively I will say nothing. My reasons are:

First. That the age is too nice and difficult for it; there being nothing the wits of men are more busy and divided upon. It is true, they seem to agree to the end, to wit, happiness; but, in the means, they differ,

as to divine, so to this human felicity; and the cause is much the same, not always want of light and knowledge, but want of using them rightly. Men side with their passions against their reason, and their sinister interests have so strong a bias upon their minds, that they lean to them against the good of the things they know.

Secondly. I do not find a model in the world, that time, place, and some singular emergences have not necessarily altered; nor is it easy to frame a civil government, that shall serve all places alike.

Thirdly. I know what is said by the several admirers of *monarchy*, *aristocracy* and *democracy*, which are the rule of one, a few, and many, and are the three common ideas of government, when men discourse on the subject. But I chuse to solve the controversy with this small distinction, and it belongs to all three: *Any government is free to the people under it* (whatever be the frame) *where the laws rule, and the people are a party to those laws*, and more than this is tyranny, oligarchy, or confusion.

But, lastly, when all is said, there is hardly one frame of government in the world so ill designed by its first founders, that, in good hands, would not do well enough; and [hi]story tells us, the best, in ill ones, can do nothing that is great or good; witness the said states. Governments, like clocks, go from the motion men give them; and as governments are made and moved by men, so by them they are ruined too. Wherefore governments rather depend upon men, than men upon governments. Let men be good, and the government cannot be bad; if it be ill, they will cure it. But, if men be bad, let the government be never so good, they will endeavor to warp and spoil it to their turn.

I know some say, let us have good laws, and no matter for the men that execute them: but let them consider, that though good laws do well, good men do better: for good laws may want good men, and be abolished or evaded by ill men; but good men will never want good laws, nor suffer ill ones. It is true, good laws have some awe upon ill ministers, but that is where they have not power to escape or abolish them, and the people are generally wise and good: but a loose and depraved people (which is the question) love laws and an administration like themselves. That, therefore, which makes a good constitution, must keep it, viz: men of wisdom and virtue, qualities, that because they descend not with worldly inheritances, must be carefully propagated by a virtuous education of youth; for which after ages will owe more to the care and prudence of founders, and the successive magistracy, than to their parents, for their private patrimonies.

These considerations of the weight of government, and the nice and various opinions about it, made it uneasy to me to think of publishing the ensuing frame and conditional laws, foreseeing both the censures,

they will meet with, from men of differing humours and engagements, and the occasion they may give of discourse beyond my design.

But, next to the power of necessity, (which is a solicitor, that will take no denial) this induced me to a compliance, that we have (with reverence to God, and good conscience to men) to the best of our skill, contrived and composed the frame and laws of this government, to the great end of all government, viz: *To support power in reverence with the people, and to secure the people from the abuse of power*; that they may be free by their just obedience, and the magistrates honourable, for their just administration: for liberty, without obedience is confusion, and obedience without liberty is slavery. To carry this evenness is partly owing to the constitution, and partly to the magistracy: where either of these fail, government will be subject to convulsions; but where both are wanting, it must be totally subverted; then where both meet, the government is like to endure.

Which I humbly pray and hope *God* will please to make the lot of this Pensilvania. Amen.

willam penn.

THE FRAME, &C—APRIL 25, 1682

To all Persons, to whom these presents may come. WHEREAS king Charles the Second, by his letters patents, under the great seal of England bearing date the fourth day of March in the Thirty and Third Year of the King, for divers consideration therein mentioned, hath been graciously pleased to give and grant unto me William Penn, by the name of William Penn, Esquire, son and heir of Sir William Penn, deceased, and to my heirs and assigns forever, all that tract of land, or Province called Pennsylvania, in America, with divers great powers, pre-eminences, royalties, jurisdictions, and authorities, necessary for the well-being and government thereof: Now know ye, that for the well-being and government of the said province, and for the encouragement of all the freemen and planters that may be therein concerned, in pursuance of the powers aforementioned, I, the said William Penn have declared, granted, and confirmed, and by these presents, for me, my heirs and assigns, do declare, grant, and confirm unto all the freemen, planters and adventurers of, in and to the said province, these liberties, franchise, and properties, to be held, enjoyed and kept by the freemen, planters, and inhabitants of the said province of Pennsylvania for ever.

Imprimis. That the government of this province shall, according to the powers of the patent, consist of the Governor and freemen of the said province, in form of a provincial Council and General Assembly,

by whom all laws shall be made, officers chosen, and public affairs transacted, as is hereafter respectively declared, that is to say—

ii. That the freemen of the said province shall, on the twentieth day of the twelfth month, which shall be in the present year one thousand six hundred eighty and two, meet and assemble in some fit place, of which timely notice shall be before hand given by the Governor or his Deputy; and then, and there, shall chuse out of themselves seventy-two persons of most note for their wisdom, virtue and ability, who shall meet, on the tenth day of the first month next ensuing, and always be called, and act as, the provincial Council of the said province.

iii. That, at the first choice of such provincial Council, one-third part of the said provincial Council shall be chosen to serve for three years, then next ensuing; one-third party, for two years then next ensuing; and one-third party, for one year then next ensuing each election, and no longer; and that the said third part shall go out accordingly; and on the twentieth day of the twelfth month, as aforesaid, yearly for ever afterwards, the freemen of the said province shall, in like manner, meet and assemble together, and then chuse twenty-four persons, being one-third of the said number, to serve in provincial Council for three years: it being intended, that one-third part of the whole provincial Council (always consisting, and to consist, of seventy-two persons, as aforesaid) falling off yearly, it shall be yearly supplied by such new yearly elections, as aforesaid; and that no one person shall continue therein longer than three years: and, in case any member shall decease before the last election during his time, that then at the next election ensuing his decease, another shall be chosen to supply his place, for the remaining time, he has to have served, and no longer.

iv. That, after the first seven years, every one of the said third parts, that goeth yearly off, shall be incapable of being chosen again for one whole year following: that so all may be fitted for government and have experience of the care and burden of it.

v. That the provincial Council, in all cases and matters of moment, as their arguing upon bills to be passed into laws, erecting courts of justice, giving judgment upon criminals impeached, and choice of officers, in such manner as is hereinafter mentioned, not less than two-thirds of the whole provincial Council shall make a quorum and that the consent and approbation of two-thirds of such quorum shall be had in all such cases and matters of moment. And moreover that, in all cases and matters of lesser moment, twenty-four Members of the said provincial Council shall make a quorum the majority of which twenty-four shall, and may, always determine in such cases and causes of lesser moment.

vi. That, in this provincial Council, the Governor or his Deputy, shall or may, always preside, and have a treble voice; and the said provincial Council shall always continue, and sit upon its own adjournments and committees.

vii. That the Governor and provincial Council shall prepare and propose to the General Assembly, hereafter mentioned, all bills, which they shall, at any time, think fit to be passed into laws, within the said province; which bills shall be published and affixed to the most noted places, in the inhabited parts thereof, thirty days before the meeting of the General Assembly, in order to the passing them into laws or rejecting of them, as the General Assembly shall see meet.

viii. That the Governor and provincial Council shall take care, that all laws, statutes and ordinances, which shall at any time be made within the said province, be duly and diligently executed.

ix. That the Governor and provincial Council shall, at all times, have the care of the peace and safety of the province, and that nothing be by any person attempted to the subversion of this frame of government.

x. That the Governor and provincial Council shall, at all times, settle and order the situation of all cities, ports, and market towns in every county, modelling therein all public buildings, streets, and market places, and shall appoint all necessary roads, and high-ways in the province.

xi. That the Governor and provincial Council shall, at all times, have power to inspect the management of the public treasury, and punish those who shall convert any part thereof to any other use, than what hath been agreed upon by the Governor, provincial Council, and General Assembly.

xii. That the Governor and provincial Council, shall erect and order all public schools, and encourage and reward the authors of useful sciences and laudable inventions in the said province.

xiii. That, for the better management of the power and trust aforesaid, the provincial Council shall, from time to time, divide itself into four distinct and proper committees, for the more easy administration of the affairs of the Province, which divides the seventy-two into four eighteens, every one of which eighteens shall consist of six out of each of the three orders, or yearly elections, each of which shall have a distinct portion of business, as followeth: *First*, a committee of plantations, to situate and settle cities, ports, and market towns, and high-ways, and to hear and decide all suits and controversies relating to plantations. *Secondly*, a committee of justice and safety, to secure the peace of the Province, and punish the mal-administration of those who subvert justice to the prejudice of the public, or private, interest. *Thirdly*, a committee of trade and treasury, who shall regulate all trade and

commerce, according to law, encourage manufacture and country growth, and defray the public charge of the Province. And, *Fourthly*, a committee of manners, education, and arts, that all wicked and scandalous living may be prevented, and that youth may be successively trained up in virtue and useful knowledge and arts: the *quorum* of each of which committees being six, that is, two out of each of the three orders, or yearly elections, as aforesaid, make a constant and standing Council of *twenty-four* which will have the power of the provincial Council, being the quorum of it, in all cases not excepted in the fifth article; and in the said committees, and standing Council of the Province, the Governor, or his Deputy, shall, or may preside, as aforesaid; and in the absence of the Governor, or his Deputy, if no one is by either of them appointed, the said committees or Council shall appoint a President for that time, and not otherwise; and what shall be resolved at such committees, shall be reported to the said Council of the province, and shall be by them resolved and confirmed before the same shall be put in execution; and that these respective committees shall not sit at one and the same time, except in cases of necessity.

xiv. And, to the end that all laws prepared by the Governor and provincial Council aforesaid, may yet have the more full concurrence of the freemen of the province, it is declared, granted and confirmed, that, at the time and place or places, for the choices of a provincial council, as aforesaid, the said freemen shall yearly chuse Members to serve in a General Assembly, as their representatives, not exceeding two hundred persons, who shall yearly meet on the twentieth day of the second month, which shall be in the year one thousand six hundred eighty and three following, in the capital town, or city, of the said province, where, during eight days, the several Members may freely confer with one another; and, if any of them see meet, with a committee of the provincial Council (consisting of three out of each of the four committees aforesaid, being twelve in all) which shall be, at that time, purposely appointed to receive from any of them proposals, for the alterations or amendment of any of the said proposed and promulgated bills: and on the ninth day from their so meeting, the said General Assembly, after reading over the proposed bills by the Clerk of the provincial Council, and the occasions and motives for them being opened by the Governor or his Deputy, shall give their affirmative or negative, which to them seemeth best, in such manner as hereinafter is expressed. But not less than two-thirds shall make a *quorum* in the passing of laws, and choice of such officers as are by them to be chosen.

xv. That the laws so prepared and proposed, as aforesaid, that are assented to by the General Assembly, shall be enrolled as laws of the

Province, with this stile: *By the Governor, with the assent and approbation of the freemen in provincial Council and General Assembly.*

xvi. That, for the establishment of the government and laws of this province, and to the end there may be an universal satisfaction in the laying of the fundamentals thereof: the General Assembly shall, or may, for the first year, consist of all the freemen of and in the said province; and ever after it shall be yearly chosen, as aforesaid; which number of two hundred shall be enlarged as the country shall increase in people, so as it do not exceed five hundred, at any time; the appointment and proportioning of which, as also the laying and methodizing of the choice of the provincial Council and General Assembly, in future times most equally to the divisions of the hundreds and counties, which the country shall hereafter be divided into, shall be in the power of the provincial Council to propose, and the General Assembly to resolve.

xvii. That the Governor and the provincial Council shall erect, from time to time, standing courts of justice, in such places and number as they shall judge convenient for the good government of the said province. And that the provincial Council shall, on the thirteenth day of the first month, yearly, elect and present to the Governor, or his Deputy, a double number of persons, to serve for Judges, Treasurers, Masters of Rolls, within the said province, for the year next ensuing; and the freemen of the said province, in the county courts, when they shall be erected, and till then, in the General Assembly, shall, on the three and twentieth day of the second month, yearly, elect and present to the Governor, or his Deputy, a double number of persons, to serve for Sheriffs, Justices of the Peace, and Coroners, for the year next ensuing; out of which respective elections and presentments, the Governor or his Deputy shall nominate and commissionate the proper number for each office, the third day after the said presentments, or else the first named in such presentment, for each office, shall stand and serve for that office the year ensuing.

xviii. But forasmuch as the present condition of the province requires some immediate settlement, and admits not of so quick a revolution of officers; and to the end the said Province may, with all convenient speed, be well ordered and settled, I, William Penn, do therefore think fit to nominate and appoint such persons for Judges, Treasurers, Masters of the Rolls, Sheriffs, Justices of the Peace, and Coroners, as are most fitly qualified for those employments; to whom I shall make and grant commissions for the said offices, respectively, to hold to them, to whom the same shall be granted, for so long time as every such person shall well behave himself in the office, or place, to him respectively granted, and

no longer. And upon the decease or displacing of any of the said officers, the succeeding officer, or officers, shall be chosen, as aforesaid.

xix. That the General Assembly shall continue so long as may be needful to impeach criminals, fit to be there impeached, to pass bills into laws, that they shall think fit to pass into laws, and till such time as the Governor and provincial Council shall declare that they have nothing further to propose unto them, for their assent and approbation: and that declaration shall be a dismiss to the General Assembly for that time; which General Assembly shall be, notwithstanding, capable of assembling together upon the summons of the provincial Council, at any time during that year, if the said provincial Council shall see occasion for their so assembling.

xx. That all the elections of members, or representatives of the people, to serve in provincial Council and General Assembly, and all questions to be determined by both, or either of them, that relate to passing of bills into laws, to the choice of officers, to impeachments by the General Assembly, and judgment of criminals upon such impeachments by the provincial Council, and to all other cases by them respectively judged of importance, shall be resolved and determined by the ballot, and unless on sudden and indispensable occasions, no business in provincial Council, or its respective committees, shall be finally determined the same day that it is moved.

xxi. That at all times when, and so often as it shall happen that the Governor shall or may be an infant, under the age of one and twenty years, and no guardians or commissioners are appointed in writing, by the father of the said infant, or that such guardians or commissioners shall be deceased; that during such minority, the provincial Council shall, from time to time, as they shall see meet, constitute and appoint guardians or commissioners, not exceeding three, one of which three shall preside as deputy and chief guardian, during such minority, and shall have and execute, with the consent of the other two, all the power of a Governor, in all the public affairs and concerns of the said province.

xxii. That, as often as any day of the month, mentioned in any article of this charter, shall fall upon the first day of the week, commonly called the Lord's Day, the business appointed for that day shall be deferred till the next day, unless in case of emergency.

xxiii. That no act, law, or ordinance whatsoever, shall at any time hereafter, be made or done by the Governor of this province, his heirs or assigns, or by the freemen in the provincial Council, or the General Assembly, to alter, change, or diminish the form, or effect, of this charter, or any part, or clause thereof, without the consent of the Governor,

his heirs, or assigns, and six parts of seven of the said freemen in provincial Council and General Assembly.

xxiv. And lastly, that I, the said for myself, my heirs and assigns, have solemnly declared, granted and confirmed, and do hereby solemnly declare, grant and confirm, that neither I, my heirs, nor assigns, shall procure to do any thing or things, whereby the liberties, in this charter contained and expressed, shall be infringed or broken; and if any thing be procured by any person or persons contrary to these premises, it shall be held of no force or effect. In witness whereof, I, the said William Penn, have unto this present character of liberties set my hand and broad seal, this five and twentieth day of the second month, vulgarly called April, in the year of our Lord one thousand six hundred and eighty-two.

WILLIAM PENN.

LAWS AGREED UPON IN ENGLAND, &C.

i. That the charter of liberties, declared, granted and confirmed the five and twentieth day of the second month, called April, 1682, before divers witnesses, by William Penn, Governor and chief Proprietor of Pennsylvania, to all the freemen and planters of the said province, is hereby declared and approved, and shall be for ever held for fundamental in the government thereof, according to the limitations mentioned in the said charter.

ii. That every inhabitant in the said province, that is or shall be, a purchaser of one hundred acres of land, or upwards, his heirs and assigns, and every persons who shall have paid his passage, and taken up one hundred acres of land, at one penny an acre, and have cultivated ten acres threof, and every person, that hath been a servant, or bondsman, and is free by his service, that shall have taken up his fifty acres of land, and cultivated twenty thereof, and every inhabitant, artificer, or other resident in the said province, that pays scot and lot to the government; shall be deemed and accounted a freeman of the said province: and every such person shall, and may, be capable of electing, or being elected, representatives of the people, in provincial Council, or General Assembly, in the said province.

iii. That all elections of members, or representatives of the people and freemen of the province of Pennsylvania, to serve in provincial Council, or General Assembly, to be held within the said province, shall be free and voluntary: and that the elector, that shall receive any reward or gift, in meat, drink, monies, or otherwise, shall forfeit his right to elect: and such person as shall directly or indirectly give, promise, or

bestow any such reward as aforesaid, to be elected, shall forfeit his election, and be thereby incapable to serve as aforesaid: and the provincial Council and General Assembly shall be the sole judges of the regularity, or irregularity of the elections of their own respective Members.

iv. That no money or goods shall be raised upon, or paid by, any of the people of this province by way of public tax, custom or contribution, but by a law, for that purpose made; and whoever shall levy, collect, or pay any money or goods contrary thereunto, shall be held a public enemy to the province and a betrayer of the liberties of the people thereof.

v. That all courts shall be open, and justice shall neither be sold, denied or delayed.

vi. That, in all courts all persons of all persuasions may freely appear in their own way, and according to their own manner, and there personally plead their own cause themselves; or, if unable, by their friends: and the first process shall be the exhibition of the complaint in court, fourteen days before the trial; and that the party, complained against, may be fitted for the same, he or she shall be summoned, no less than ten days before, and a copy of the complaint delivered him or her, at his or her dwelling house. But before the complaint of any person be received, he shall solemnly declare in court that he believes, in his conscience, his cause is just.

vii. That all pleadings, processes and records in courts, shall be short, and in English, and in an ordinary and plain character, that they may be understood, and justice speedily administered.

viii. That all trials shall be by twelve men, and as near as may be, peers or equals, and of the neighborhood, and men without just exception; in cases of life, there shall be first twenty-four returned by the sheriffs, for a grand inquest, of whom twelve, at least, shall find the complaint to be true; and then the twelve men, or peers, to be likewise returned by the sheriff, shall have the final judgment. But reasonable challenges shall be always admitted against the said twelve men, or any of them.

ix. That all fees in all cases shall be moderate, and settled by the provincial Council, and General Assembly, and be hung up in a table in every respective court; and whosoever, shall be convicted of taking more, shall pay twofold, and be dismissed his employment; one moiety of which shall go to the party wronged.

x. That all prisons shall be work-houses, for felons, vagrants, and loose and idle persons; whereof one shall be in every county.

xi. That all prisoners shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident, or the presumption great.

xii. That all persons wrongfully imprisoned, or prosecuted at law, shall have double damages against the informer, or prosecutor.

xiii. That all prisons shall be free, as to fees, food, and lodging.

xiv. That all lands and goods shall be liable to pay debts, except where there is legal issue, and then all the goods, and one-third of the land only.

xv. That all wills, in writing, attested by two witnesses, shall be of the same force as to lands, as other conveyances, being legally proved within forty days, either within or without the said province.

xvi. That seven years quiet possession shall give an unquestionable right, except in cases of infants, lunatics, married women, or persons beyond the seas.

xvii. That all briberies and extortion whatsoever shall be severely punished.

xviii. That all fines shall be moderate, and saving men's contentments, merchandize, or wainage.

xix. That all marriages (not forbidden by the law of God, as to nearness of blood and affinity by marriage) shall be encouraged; but the parents, or guardians, shall be first consulted, and the marriage shall be published before it be solemnized; and it shall be solemnized by taking one another as husband and wife, before credible witnesses; and a certificate of the whole, under the hands of parties and witnesses, shall be brought to the proper register of that county, and shall be registered in his office.

xx. And, to prevent frauds and vexatious suits within the said province, that all charters, gifts, grants, and conveyances (except leases for a year or under) and all bills, bonds, and specialties above five pounds, and not under three months, made in the said province, shall be enrolled, or registered in the public enrolment office of the said province, within the space of two months next after the making thereof, else to be void in law, and all deeds, grants, and conveyances of land (except as aforesaid) within the said province, and made out of the said province, shall be enrolled or registered, as aforesaid, within six months next after the making thereof, and settling and constituting an enrolment office or registry within the said province, else to be void in law against all persons whatsoever.

xxi. That all defacers or corrupters of charters, gifts, grants, bonds, bills, wills, contracts, and conveyances, or that shall deface or falsify any enrolment, registry or record, within this province, shall make double satisfaction for the same; half whereof shall go to the party wronged, and they shall be dismissed of all places of trust, and be publicly disgraced as false men.

xxii. That there shall be a register for births, marriages, burials, wills, and letters of administration, distinct from the other registry.

xxiii. That there shall be a register for all servants, where their names, time, wages, and days of payment shall be registered.

xxiv. That all lands and goods of felons shall be liable, to make satisfaction to the party wronged twice the value; and for want of lands or goods, the felons shall be bondmen to work in the common prison, or work-house, or otherwise, till the party injured be satisfied.

xxv. That the estates of capital offenders, as traitors and murderers, shall go, one-third to the next of kin to the sufferer, and the remainder to the next of kin to the criminal.

xxvi. That all witnesses, coming, or called, to testify their knowledge in or to any matter or thing, in any court, or before any lawful authority, within the said province, shall there give or delivery in their evidence, or testimony, by solemnly promising to speak the truth, the whole truth, and nothing but the truth, to the matter, or thing in question. And in case any person so called to evidence, shall be convicted of wilful falsehood, such person shall suffer and undergo such damage or penalty, as the person, or persons, against whom he or she bore false witness, did, or should, undergo; and shall also make satisfaction to the party wronged, and be publicly exposed as a false witness, never to be credited in any court, or before any Magistrate, in the said province.

xxvii. And, to the end that all officers chosen to serve within this province, may, with more care and dilligence, answer the trust reposed in them, it is agreed, that no such person shall enjoy more than one public office, at one time.

xxviii. That all children, within this province, of the age of twelve years, shall be taught some useful trade or skill, to the end none may be idle, but the poor may work to live, and the rich, if they become poor may not want.

xxix. That servants be not kept longer than their time, and such as are careful, be both justly and kindly used in their service, and put in fitting equipage at the expiration thereof, according to custom.

xxx. That all scandalous and malicious reporters, backbiters, defamers and spreaders of false news, whether against Magistrates, or private persons, shall be accordingly severely punished, as enemies to the peace and concord of this province.

xxxi. That for the encouragement of the planters and traders in this province, who are incorporated into a society, the patent granted to them by William Penn, Governor of the said province, is hereby ratified and confirmed.

xxxii. * * *

xxxiii. That all factors or correspondents in the said province, wronging their employers, shall make satisfaction, and one-third over, to their said employers: and in case of the death of any such factor or correspondent, the committee of trade shall take care to secure so much of the deceased party's estate as belongs to his said respective employers.

xxxiv. That all Treasurers, Judges, Masters of the Rolls, Sheriffs, Justices of the Peace, and other officers and persons whatsoever, relating to courts, or trials of causes, or any other service in the government; and all Members elected to serve in provincial Council and General Assembly, and all that have right to elect such Members, shall be such as possess faith in Jesus Christ, and that are not convicted of ill fame, or unsober and dishonest conversation, and that are of one and twenty years of age, at least; and that all such so qualified, shall be capable of the said several employments and privileges, as aforesaid.

xxxv. That all persons living in this province, who confess and acknowledge the one Almighty and eternal God, to be the Creator, Upholder and Ruler of the world; and that hold themselves obliged in conscience to live peaceable and justly in civil society, shall, in no ways, be molested or prejudiced for their religious persuasion, or practice, in matters of faith and worship, nor shall they be compelled, at any time, to frequent or maintain any religious worship, place or ministry whatever.

xxxvi. That, according to the good example of the primitive Christians, and the case of the creation, every first day of the week, called the Lord's day, people shall abstain from their common daily labour, that they may better dispose themselves to worship God according to their understandings.

xxxvii. That as a careless and corrupt administration of justice draws the wrath of God upon magistrates, so the wildness and looseness of the people provoke the indignation of God against a country: therefore, that all such offences against God, as swearing, cursing, lying, prophane talking, drunkenness, drinking of healths, obscene words, incest, sodomy, rapes, whoredom, fornication, and other uncleanness (not to be repeated) all treasons, misprisions, murders, duels, felony, seditious, maims, forcible entries, and other violences, to the persons and estates of the inhabitants within this province; all prizes, stage-plays, cards, dice, May-games, gamesters, masques, revels, bull-baitings, cock-fightings, bear-baitings, and the like, which excite the people to rudeness, cruelty, looseness, and irreligion, shall be respectively discouraged, and severely punished, according to the appointment of the Governor

and freemen in provincial Council and General Assembly; as also all proceedings contrary to these laws, that are not here made expressly penal.

xxxviii. That a copy of these laws shall be hung up in the provincial Council, and in public courts of justice: and that they shall be read yearly at the opening of every provincial Council and General Assembly, and court of justice; and their assent shall be testified, by their standing up after the reading thereof.

xxxix. That there shall be, at no time, any alteration of any of these laws, without the consent of the Governor, his heirs, or assigns, and six parts of seven of the freemen, met in provincial Council and General Assembly.

xl. That all other matters and things not herein provided for, which shall, and may, concern the public justice, peace, or safety of the said province; and the raising and imposing taxes, customs, duties, or other charges whatsoever, shall be, and are, hereby referred to the order, prudence and determination of the Governor and freemen, in Provincial Council and General Assembly, to be held, from time to time, in the said province.

Signed and sealed by the Governor and freemen aforesaid, the fifth day of the third month, called one thousand six hundred and eighty-two.

1. Printed: Donald S. Lutz, ed., *Colonial Origins of the American Constitution: A Documentary History* (Indianapolis, Ind., 1998), 271–86.

2. The quotations are from St. Paul and are found in Galatians 3:19, 1 Timothy 1:9, and Romans 13:1-2, 3, 4, 5.

III. THE REVOLUTIONARY ERA

Resolutions of the Stamp Act Congress, 19 October 1765¹

With the end of the French and Indian War in 1763, Great Britain took possession of Canada from France and East and West Florida from Spain. With these acquisitions, British authorities felt that more revenue from the colonies would be needed to administer this new territory. The British national debt had also been doubled from the wartime expenses. Thus, when Charles Townshend became first lord of trade in February 1763, he announced that the acts of trade and navigation acts would be more strictly enforced and that a program of Parliamentary taxes would replace the requisitions previously placed on the colonies. This change in imperial policy would create one crisis after another that eventually led to Americans declaring their independence. Acts passed by Parliament that levied taxes on the colonies were soon implemented after George Grenville became first lord of the exchequer in February 1763. Revenue from these new taxes was to be used to pay the salaries of colonial governors and judges and the expenses associated with regular army troops that were to be stationed in the colonies supposedly for the protection of the colonies, but in reality to make sure that the colonies paid the import duties and other direct taxes to be enacted. (Grenville had discovered that only £2,000 of revenue had been received annually from the colonies when it cost £8,000 to collect the taxes. Americans had long become adept at “patriotically” avoiding import duties through ingenious ways of smuggling.)

The Stamp Act of 22 March 1765 was probably the single act most despised by American colonists. To go into effect in November, it mandated that a stamp duty be placed on all legal documents, newspapers, pamphlets, almanacs, college degrees, liquor licenses, playing cards, dice, etc. Prosecutions under the Stamp Act were to be heard not by local courts, but by admiralty courts in which there were no jury trials.

The Boston town meeting was the first official body to object to the Stamp Act. On 24 May 1765 the town instructed its colonial agent in London to protest against the Stamp Act as violating the rights of Englishmen possessed by Massachusetts freemen. In May 1765, the Virginia House of Burgesses denounced the Stamp Act with seven resolutions introduced by Patrick Henry. The next month the Massachusetts House of Representatives proposed that the colonies send delegations to a meeting in New York City in October “to consult together on the present circumstances of the colonies, and the difficulties to which they are and must be reduced by the operation of the acts of parliament for levying duties and taxes on the colonies, and to consider of a general and united, dutiful, loyal, and humble representation of their condition to his majesty and to the parliament, and to implore relief.”

Nine colonies sent delegates. New Hampshire did not send a delegation but later approved the resolutions of the Convention. Virginia, North Carolina, and Georgia did not send delegations because their governors failed to call their legislatures into session to make the appointments.

After convening on 7 October 1765, the delegates elected Timothy Ruggles of Massachusetts president and John Dickinson of Delaware chairman of the committee that would draft resolutions. The Convention debated the resolutions for about two weeks before approving fourteen resolutions on 19 October, after which petitions were prepared to be submitted to the king and each house of Parliament calling for the repeal of the act. The Convention adjourned on 25 October.

Because of the widespread opposition in America that took the form of violence, intimidation, and embargos on imports and exports, Parliament, now under the administration of Lord Rockingham, repealed the Stamp Act on 18 March 1766. On the same day, however, Parliament passed the Declaratory Act, which provided that Parliament had the power to bind America in all cases whatsoever and that all American petitions, resolutions, and acts protesting Parliament's actions were null and void. According to William Pitt, the Declaratory Act was merely a face-saving gesture. However, with the enactment of the Townshend Duties in 1767, it became evident that the Declaratory Act was more than face-saving.

The Members of this Congress, sincerely devoted, with the warmest Sentiments of Affection and Duty to his Majesty's Person and Government, inviolably attached to the present happy Establishment of the Protestant Succession, and with Minds deeply impressed by a Sense of the present and impending Misfortunes of the *British Colonies* on this Continent; having considered as maturely as Time will permit, the Circumstances of the said Colonies, esteem it our indispensable Duty, to make the following Declarations of our humble Opinion, respecting the most Essential Rights and Liberties of the Colonists, and of the Grievances under which they labour, by Reason of several late Acts of Parliament.

I. That his Majesty's Subjects in these Colonies, owe the same Allegiance to the Crown of *Great-Britain*, that is owing from his Subjects born within the Realm, and all due Subordination to that August Body the Parliament of *Great-Britain*.

II. That his Majesty's Liege Subjects in these Colonies, are entitled to all the inherent Rights and Liberties of his Natural born Subjects, within the Kingdom of *Great-Britain*.

III. That it is inseparably essential to the Freedom of a People, and the undoubted Right of *Englishmen*, that no Taxes be imposed on them, but with their own Consent, given personally, or by their Representatives.

IV. That the People of these Colonies are not, and from their local Circumstances cannot be, Represented in the House of Commons in *Great-Britain*.

V. That the only Representatives of the People of these Colonies, are Persons chosen therein by themselves, and that no Taxes ever have

been, or can be Constitutionally imposed on them, but by their respective Legislature.

VI. That all Supplies to the Crown, being free Gifts of the People, it is unreasonable and inconsistent with the Principles and Spirit of the *British Constitution*, for the People of *Great-Britain*, to grant to his Majesty the Property of the Colonists.

VII. That Trial by Jury, is the inherent and invaluable Right of every *British Subject* in these Colonies.

VIII. That the late Act of Parliament, entitled, *An Act for granting and applying certain Stamp Duties, and other Duties, in the British Colonies and Plantations in America, &c.* by imposing Taxes on the Inhabitants of these Colonies, and the said Act, and several other Acts, by extending the Jurisdiction of the Courts of Admiralty beyond its ancient Limits, have a manifest Tendency to subvert the Rights and Liberties of the Colonists.

IX. That the Duties imposed by several late Acts of Parliament, from the peculiar Circumstances of these Colonies, will be extremely Burthensome and Grievous; and from the scarcity of Specie, the Payment of them absolutely impracticable.

X. That as the Profits of the Trade of these Colonies ultimately center in *Great-Britain*, to pay for the Manufactures which they are obliged to take from thence, they eventually contribute very largely to all Supplies granted there to the Crown.

XI. That the Restrictions imposed by several late Acts of Parliament, on the Trade of these Colonies, will render them unable to purchase the Manufactures of *Great-Britain*.

XII. That the Increase, Prosperity, and Happiness of these Colonies, depend on the full and free Enjoyment of their Rights and Liberties, and an Intercourse with *Great-Britain* mutually Affectionate and Advantageous.

XIII. That it is the Right of the *British Subjects* in these Colonies, to Petition the King, or either House of Parliament.

Lastly, That it is the indispensable Duty of these Colonies, to the best of Sovereigns, to the Mother Country, and to themselves, to endeavour by a loyal and dutiful Address to his Majesty, and humble Applications to both Houses of Parliament, to procure the Repeal of the Act for granting and applying certain Stamp Duties, of all Clauses of any other Acts of Parliament, whereby the Jurisdiction of the Admiralty is extended as aforesaid, and of the other late Acts for the Restriction of *American Commerce*.

1. *Proceedings of the Congress at New-York* (Annapolis, Md., 1766) (Evans 10424), 15–16.

The Olive Branch Petition, 5 July 1775¹

Pursuant to the resolutions of the First Continental Congress, the Second Continental Congress assembled in Philadelphia on 10 May 1775. Although elected by extra-legal provincial legislatures, and assembling after the Battles of Lexington and Concord (19 April 1775), most of the delegates to the Second Continental Congress were still hopeful that reconciliation with Great Britain might occur. Committees were appointed to draft petitions to the king. John Dickinson chaired a five-man committee that drafted the Olive Branch Petition that sought the king's assistance in ameliorating the hostilities. Approved on 5 July, the petition was signed by John Hancock, president of Congress, and the delegates from the twelve attending colonies. It was sent to England on 8 July. The king refused to receive the petition and on 23 August 1775 proclaimed the colonies in a state of rebellion and those who were participating were traitors. The king's proclamation made reconciliation virtually impossible.

To the KING's most excellent Majesty.

Most Gracious Sovereign!

We your Majesty's faithful Subjects of the Colonies of Newhampshire, Massachusetts-Bay, Rhode-Island, and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, the Counties of New-Castle, Kent, and Sussex on Delaware, Maryland, Virginia, North-Carolina, and South-Carolina, in behalf of ourselves and the inhabitants of these Colonies, who have deputed us to represent them in General Congress, entreat your Majesty's gracious attention to this our humble petition.

The union between our Mother-Country and these Colonies, and the energy of mild and just government, produced benefits so remarkably important, and afforded such an assurance of their permanency and increase, that the wonder and envy of other nations were excited, while they beheld Great-Britain rising to a power, the most extraordinary the world had ever known.

Her rivals, observing that there was no probability of this happy connection being broken by civil dissensions, and apprehending its future effects, if left any longer undisturbed, resolved to prevent her receiving such continual and formidable accessions of wealth and strength, by checking the growth of those settlements from which they were to be derived.

In the prosecution of this attempt, events so unfavourable to the design took place, that every friend to the interest of Great-Britain and these Colonies, entertained pleasing and reasonable expectations of seeing an additional force and extention immediately given to the operations of the union hitherto experienced, by an enlargement of the dominions of the Crown, and the removal of ancient and warlike enemies to a greater distance.

At the conclusion therefore of the late war, the most glorious and advantageous that ever had been carried on by British arms, your loyal Colonists having contributed to its success, by such repeated and strenuous exertions, as frequently procured them the distinguished approbation of your Majesty, of the late King [George II], and of Parliament, doubted not, but that they should be permitted, with the rest of the empire, to share in the blessings of peace, and the emoluments of victory and conquest.

While these recent and honourable acknowledgments of their merits remained on record in the journals and acts of that august legislature, the Parliament, undefaced by the imputation, or even the suspicion of any offence, they were alarmed by a new system of statutes and regulations, adopted for the administration of the Colonies, that filled their minds with the most painful fears and jealousies; and to their inexpressible astonishment, perceived the danger of a foreign quarrel, quickly succeeded by domestic dangers, in their judgment of a more dreadful kind.

Nor were these anxieties alleviated by any tendency in this system to promote the welfare of their Mother-Country. For though its effects were more immediately felt by them, yet its influence appeared to be injurious to the commerce and prosperity of Great-Britain.

We shall decline the ungrateful task of describing the irksome variety of artifices, practised by many of your Majesty's ministers, the delusive pretences, fruitless terrors, and unavailing severities, that have from time to time been dealt out by them, in their attempts to execute this impolitic plan, or of tracing through a series of years past the progress of the unhappy differences between Great-Britain and these Colonies, that have flowed from this fatal source.

Your Majesty's Ministers, persevering in their measures, and proceeding to open hostilities for enforcing them, have compelled us to arm in our own defence, and have engaged us in a controversy so peculiarly abhorrent to the affections of your still faithful Colonists, that when we consider whom we must oppose in the contest, and if it continues, what may be the consequences, our own particular misfortunes are accounted by us only as parts of our distress.

Knowing to what violent resentments and incurable animosities, civil discords are apt to exasperate and inflame the contending parties, we think ourselves required by indispensable obligations to Almighty God, to your Majesty, to our fellow subjects, and to ourselves, immediately to use all the means in our power, not incompatible with our safety, for stopping the further effusion of blood, and for averting the impending calamities that threaten the British empire.

Thus called upon to address your Majesty on affairs of such moment to America, and probably to all your dominions, we are earnestly desirous of performing this office, with the utmost deference for your Majesty; and we therefore pray, that your Majesty's royal magnanimity and benevolence may make the most favourable constructions of our expressions on so uncommon an occasion. Could we represent in their full force the sentiments that agitate the minds of us your dutiful subjects, we are persuaded, your Majesty would ascribe any seeming deviation from reverence in our language, and even in our conduct, not to any reprehensible intention, but to the impossibility of reconciling the usual appearances of respect with a just attention to our own preservation against those awful and cruel enemies, who abuse your royal confidence and authority, for the purpose of effecting our destruction.

Attached to your Majesty's person, family, and government, with all devotion that principle and affection can inspire, connected with Great-Britain by the strongest ties that can unite societies, and deploring every event that tends in any degree to weaken them. We solemnly assure your Majesty, that we, not only most ardently desire the former harmony between her and these Colonies, may be restored, but that a concord may be established between them upon so firm a basis as to perpetuate its blessings, uninterrupted by any future dissensions, to succeeding generations in both countries, and to transmit your Majesty's name to posterity, adorned with that signal and lasting glory that has attended the memory of those illustrious personages, whose virtues and abilities have extricated states from dangerous convulsions, and by securing happiness to others, have erected the most noble and durable monuments to their own fame.

We beg leave further to assure your Majesty, that notwithstanding the sufferings of your loyal Colonists during the course of this present Controversy, our Breasts retain too tender a regard for the Kingdom from which we derive our Origin, to request such a Reconciliation, as might in any manner be inconsistent with her Dignity or her welfare. These, related as we are to her, Honour and Duty, as well as inclination, induce us to support and advance; and the apprehensions, that now oppress our Hearts with unspeakable Grief, being once removed, your Majesty will find your faithful Subjects on this Continent ready and willing at all times, as they have ever been, with their lives and fortunes, to assert and maintain the rights and interests of your Majesty, and of our mother country.

We therefore beseech your Majesty, that your royal authority and influence may be graciously interposed to procure us relief from our afflicting fears and jealousies, occasioned by the system before-mentioned,

and to settle peace through every part of our dominions, with all humility submitting to your Majesty's wise consideration, whether it may not be expedient for facilitating those important purposes, that your Majesty be pleased to direct some mode, by which the united applications of your faithful Colonists to the throne, in presence of their Common Councils, may be improved into a happy and permanent reconciliation; and that in the mean time measures may be taken for preventing the further destruction of the lives of your Majesty's subjects; and that such statutes as more immediately distress any of your Majesty's Colonies may be repealed.

For by such arrangements as your Majesty's wisdom can form for collecting the united sense of your American people, we are convinced, your Majesty would receive such satisfactory proofs of the disposition of the Colonists towards their Sovereign, and the parent state, that the wished for opportunity would soon be restored to them, of evincing the sincerity of their professions, by every testimony of devotion becoming the most dutiful Subjects and the most affectionate Colonists.

That your Majesty may enjoy a long and prosperous reign, and that your descendents may govern your dominions, with honour to themselves and happiness to their subjects, is our sincere and fervent prayer.

1. *The Humble Petition of the Twelve United Colonies, By Their Delegates in Congress, to the King*, (Philadelphia, 1775) (Evans 42961).

A Declaration by the Representatives of the United Colonies of North America, now met in General Congress at Philadelphia, setting forth the causes and necessity of their taking up arms, 6 July 1775¹

Six weeks after assembling, the Second Continental Congress appointed a five-man committee to draft reasons explaining why Congress was forced to resort to taking up arms in defense of American liberty. The committee consisted of John Rutledge of South Carolina, William Livingston of New Jersey, Benjamin Franklin of Pennsylvania, John Jay of New York, and Thomas Johnson of Maryland. The committee reported the next day. On 26 June, Congress recommitted the draft and added John Dickinson of Pennsylvania and Thomas Jefferson of Virginia to the committee. Jefferson prepared a new draft, which the other members thought to be too radical. Dickinson prepared a new draft, but preserved much of Jefferson's last five paragraphs. Congress approved this final draft without change on 6 July and sent it to the king on 8 July. The king refused to receive the declaration and the Olive Branch Petition, having on 23 August already declared the colonists in a state of rebellion.

If it was possible for men, who exercise their reason, to believe, that the Divine Author of our existence intended a part of the human race

to hold an absolute property in, and an unbounded power over others, marked out by his infinite goodness and wisdom, as the objects of a legal domination never rightfully resistible, however severe and oppressive, the Inhabitants of these Colonies might at least require from the Parliament of Great Britain some evidence, that this dreadful authority over them, has been granted to that body. But a reverence for our great Creator, principles of humanity, and the dictates of common sense, must convince all those who reflect upon the subject, that government was instituted to promote the welfare of mankind, and ought to be administered for the attainment of that end. The legislature of Great Britain, however, stimulated by an inordinate passion for a power, not only unjustifiable, but which they know to be peculiarly reprobated by the very constitution of that kingdom, and desperate of success in any mode of contest, where regard should be had to truth, law, or right, have at length, deserting those, attempted to effect their cruel and impolitic purpose of enslaving these Colonies by violence, and have thereby rendered it necessary for us to close with their last appeal from Reason to Arms.—Yet, however blinded that assembly may be, by their intemperate rage for unlimited domination, so to slight justice and the opinion of mankind, we esteem ourselves bound, by obligations of respect to the rest of the world, to make known the justice of our cause.

Our forefathers, inhabitants of the island of Great Britain, left their native land, to seek on these shores a residence for civil and religious freedom. At the expence of their blood, at the hazard of their fortunes, without the least charge to the country from which they removed, by unceasing labor, and an unconquerable spirit, they effected settlements in the distant and inhospitable wilds of America, then filled with numerous and warlike nations of barbarians. Societies or governments, vested with perfect legislatures, were formed under charters from the crown, and an harmonious intercourse was established between the colonies and the kingdom from which they derived their origin. The mutual benefits of this union became in a short time so extraordinary, as to excite astonishment. It is universally confessed, that the amazing increase of the wealth, strength, and navigation of the realm, arose from this source; and the minister, who so wisely and successfully directed the measures of Great Britain in the late war [William Pitt the Elder], publicly declared, that these colonies enabled her to triumph over her enemies.—Towards the conclusion of that war, it pleased our sovereign to make a change in his counsels.—From that fatal moment, the affairs of the British empire began to fall into confusion, and gradually sliding from the summit of glorious prosperity, to which they had been advanced by the virtues and abilities of one man, are at length

distracted by the convulsions, that now shake it to its deepest foundations. The new ministry finding the brave foes of Britain, though frequently defeated, yet still contending, took up the unfortunate idea of granting them a hasty peace, and of then subduing her faithful friends.

These devoted colonies were judged to be in such a state, as to present victories without bloodshed, and all the easy emoluments of statuteable plunder.—The uninterrupted tenor of their peaceable and respectful behaviour from the beginning of colonization, their dutiful, zealous, and useful services during the war, though so recently and amply acknowledged in the most honorable manner by his majesty, by the late king [George II], and by Parliament, could not save them from the meditated innovations.—Parliament was influenced to adopt the pernicious project, and assuming a new power over them, have, in the course of eleven years, given such decisive specimens of the spirit and consequences attending this power, as to leave no doubt concerning the effects of acquiescence under it. They have undertaken to give and grant our money without our consent, though we have ever exercised an exclusive right to dispose of our own property; statutes have been passed for extending the jurisdiction of courts of Admiralty and Vice-Admiralty beyond their ancient limits; for depriving us of the accustomed and inestimable privilege of trial by jury, in cases affecting both life and property; for suspending the legislature of one of the colonies; for interdicting all commerce to the capital of another; and for altering fundamentally the form of government established by charter, and secured by acts of its own legislature solemnly confirmed by the crown; for exempting the “murderers” of colonists from legal trial, and in effect, from punishment; for erecting in a neighboring province, acquired by the joint arms of Great Britain and America, a despotism dangerous to our very existence; and for quartering soldiers upon the colonists in time of profound peace. It has also been resolved in parliament, that colonists charged with committing certain offences, shall be transported to England to be tried.

But why should we enumerate our injuries in detail? By one statute it is declared, that parliament can “of right make laws to bind us IN ALL CASES WHATSOEVER.” What is to defend us against so enormous, so unlimited a power? Not a single man of those who assume it, is chosen by us; or is subject to our controul or influence; but, on the contrary, they are all of them exempt from the operation of such laws, and an American revenue, if not diverted from the ostensible purposes for which it is raised, would actually lighten their own burdens in proportion as they increase ours. We saw the misery to which such despotism would reduce us. We for ten years incessantly and ineffectually

besieged the Throne as supplicants; we reasoned, we remonstrated with parliament, in the most mild and decent language. But Administration, sensible that we should regard these oppressive measures as freemen ought to do, sent over fleets and armies to enforce them. The indignation of the Americans was roused, it is true; but it was the indignation of a virtuous, loyal, and affectionate people. A Congress of Delegates from the United Colonies was assembled at Philadelphia, on the fifth day of last *September*. We resolved again to offer an humble and dutiful petition to the King, and also addressed our fellow-subjects of Great Britain. We have pursued every temperate, every respectful measure: we have even proceeded to break off our commercial intercourse with our fellow-subjects, as the last peaceable admonition, that our attachment to no nation upon earth should supplant our attachment to liberty.—This, we flattered ourselves, was the ultimate step of the controversy: But subsequent events have shewn, how vain was this hope of finding moderation in our enemies.

Several threatening expressions against the colonies were inserted in his Majesty's speech; our petition, though we were told it was a decent one, and that his Majesty had been pleased to receive it graciously, and to promise laying it before his Parliament, was huddled into both houses among a bundle of American papers, and there neglected. The Lords and Commons in their address, in the month of February, said, that "a rebellion at that time actually existed within the province of Massachusetts bay; and that those concerned in it, had been countenanced and encouraged by unlawful combinations and engagements, entered into by his Majesty's subjects in several of the other colonies; and therefore they besought his Majesty, that he would take the most effectual measures to enforce due obedience to the laws and authority of the supreme legislature."—Soon after, the commercial intercourse of whole colonies, with foreign countries, and with each other, was cut off by an act of Parliament; by another, several of them were entirely prohibited from the fisheries in the seas near their coasts, on which they always depended for their sustenance; and large re-inforcements of ships and troops were immediately sent over to General Gage.

Fruitless were all the entreaties, arguments, and eloquence of an illustrious band of the most distinguished Peers and Commoners, who nobly and strenuously asserted the justice of our cause, to stay, or even to mitigate the heedless fury with which these accumulated and unexampled outrages were hurried on.—Equally fruitless was the interference of the city of London, of Bristol, and many other respectable towns in our favour. Parliament adopted an insidious manœuvre calculated to divide us, to establish a perpetual auction of taxations where

colony should bid against colony, all of them uninformed what ransom would redeem their lives; and thus to extort from us, at the point of the bayonet, the unknown sums that should be sufficient to gratify, if possible to gratify, ministerial rapacity, with the miserable indulgence left to us of raising, in our own mode, the prescribed tribute. What terms more rigid and humiliating could have been dictated by remorseless victors to conquered enemies? In our circumstances to accept them, would be to deserve them.

Soon after intelligence of these proceedings arrived on this continent, General Gage, who in the course of the last year had taken possession of the town of Boston, in the province of Massachusetts Bay, and still occupied it as a garrison, on the 19th day of April, sent out from that place a large detachment of his army, who made an unprovoked assault on the inhabitants of the said province, at the town of Lexington, as appears by the affidavits of a great number of persons, some of whom were officers and soldiers of that detachment, murdered eight of the inhabitants, and wounded many others. From thence the troops proceeded in warlike array to the town of Concord, where they set upon another party of the inhabitants of the same province, killing several and wounding more, until compelled to retreat by the country people suddenly assembled to repel this cruel aggression. Hostilities, thus commenced by the British troops, have been since prosecuted by them without regard to faith or reputation.—The inhabitants of Boston being confined within that town by the General their Governor, and having, in order to procure their dismissal, entered into a treaty with him, it was stipulated that the said inhabitants having deposited their arms with their own magistrates, should have liberty to depart, taking with them their other effects. They accordingly delivered up their arms, but in open violation of honor, in defiance of the obligation of treaties, which even savage nations esteemed sacred, the Governor ordered the arms deposited as aforesaid, that they might be preserved for their owners, to be seized by a body of soldiers; detained the greatest part of the inhabitants in the town, and compelled the few who were permitted to retire, to leave their most valuable effects behind.

By this perfidy wives are separated from their husbands, children from their parents, the aged and the sick from their relations and friends, who wish to attend and comfort them; and those who have been used to live in plenty and even elegance, are reduced to deplorable distress.

The General, further emulating his ministerial masters, by a proclamation bearing date on the 12th day of June, after venting the grossest falsehoods and calumnies against the good people of these colonies, proceeds to “declare them all, either by name or description, to be

rebels and traitors, to supersede the course of the common law, and instead thereof to publish and order the use and exercise of the law martial."—His troops have butchered our countrymen, have wantonly burnt Charles-Town, besides a considerable number of houses in other places; our ships and vessels are seized; the necessary supplies of provisions are intercepted, and he is exerting his utmost power to spread destruction and devastation around him.

We have received certain intelligence that General Carleton, the Governor of Canada, is instigating the people of that province and the Indians to fall upon us; and we have but too much reason to apprehend, that schemes have been formed to excite domestic enemies against us. In brief, a part of these colonies now feels, and all of them are sure of feeling, as far as the vengeance of administration can inflict them, the complicated calamities of fire, sword, and famine.—We are reduced to the alternative of chusing an unconditional submission to the tyranny of irritated ministers, or resistance by force.—The latter is our choice.—We have counted the cost of this contest, and find nothing so dreadful as voluntary slavery.—Honor, justice, and humanity, forbid us tamely to surrender that freedom which we received from our gallant ancestors, and which our innocent posterity have a right to receive from us. We cannot endure the infamy and guilt of resigning succeeding generations to that wretchedness which inevitably awaits them, if we basely entail hereditary bondage upon them.

Our cause is just. Our union is perfect. Our internal resources are great, and, if necessary, foreign assistance is undoubtedly attainable.—We gratefully acknowledge, as signal instances of the Divine favour towards us, that his Providence would not permit us to be called into this severe controversy, until we were grown up to our present strength, had been previously exercised in warlike operation, and possessed of the means of defending ourselves.—With hearts fortified with these animating reflections, we most solemnly, before God and the world, declare, that, exerting the utmost energy of those powers, which our beneficent Creator hath graciously bestowed upon us, the arms we have been compelled by our enemies to assume, we will, in defiance of every hazard, with unabating firmness and perseverance, employ for the preservation of our liberties; being with one mind resolved to dye Free-men rather than live Slaves.

Lest this declaration should disquiet the minds of our friends and fellow-subjects in any part of the empire, we assure them that we mean not to dissolve that Union which has so long and so happily subsisted between us, and which we sincerely wish to see restored.—Necessity has not yet driven us into that desperate measure, or induced us to excite

any other nation to war against them.—We have not raised armies with ambitious designs of separating from Great Britain, and establishing independent states. We fight not for glory or for conquest. We exhibit to mankind the remarkable spectacle of a people attacked by unprovoked enemies, without any imputation or even suspicion of offence. They boast of their privileges and civilization, and yet proffer no milder conditions than servitude or death.

In our own native land, in defence of the freedom that is our birth-right, and which we ever enjoyed till the late violation of it—for the protection of our property, acquired solely by the honest industry of our fore-fathers and ourselves, against violence actually offered, we have taken up arms. We shall lay them down when hostilities shall cease on the part of the aggressors, and all danger of their being renewed shall be removed, and not before.

With an humble confidence in the mercies of the supreme and impartial Judge and Ruler of the universe, we most devoutly implore his divine goodness to protect us happily through this great conflict, to dispose our adversaries to reconciliation on reasonable terms, and thereby to relieve the empire from the calamities of civil war.

1. *Journals of the Continental Congress 1774–1789*, Vol. II (1775) (Washington, D.C., 1905), 140–57. For another version with slightly different punctuation and capitalization, see Evans 38750.

The Declaration of Independence¹

On 15 May 1776 Virginia instructed its delegates in Congress to move that the colonies declare themselves “free and independent states. . . .” In Congress, on 7 June, Richard Henry Lee moved a three-part resolution: that “These United Colonies are, and of right ought to be, free and independent states,” that they should take measures to form foreign alliances, and that a “plan of confederation” should be prepared. Congress debated the issue of independence until 10 June, when it postponed further consideration until 1 July. On 11 June Congress appointed a committee consisting of Thomas Jefferson of Virginia, John Adams of Massachusetts, Benjamin Franklin of Pennsylvania, Roger Sherman of Connecticut, and Robert R. Livingston of New York to draft a declaration of independence.

The committee gave Jefferson the responsibility. He first submitted his draft to Adams and Franklin and then to the entire committee. The draft was read to Congress on 28 June, and Congress then ordered that it “lie on the table.”

On 1 July Congress resumed debate on Lee’s first resolution, and the next day all the colonies voted for it except for New York which abstained. Congress then began to revise the draft declaration, a task completed the evening of the 4th. Congress ordered the Declaration of Independence printed and sent to civilian authorities in each colony and to officers commanding Continental troops. The next day, the printer presented to Congress a one-page broadside

with the title: "A Declaration By the Representatives of the United States of America. In General Congress assembled."

New York agreed to independence on 9 July, and this action was reported to Congress on 15 July. Four days later Congress resolved "That the Declaration passed on the 4th, be fairly engrossed on parchment, with the title and stile of 'The unanimous declaration of the thirteen United States of America,' and that the same, when engrossed, be signed by every member of Congress."

On 2 August the engrossed Declaration was ready for signing. (Timothy Matlack, a Philadelphia brewer and bottler of beer, who had been appointed clerk of the Second Continental Congress, had engrossed the Declaration.) Some members signed that day and others later. Eventually fifty-six men signed the Declaration. However, the names of the signers were not made public at the time. It was not until 18 January 1777 that Congress ordered that a printed copy of the Declaration with the names of signers be sent to the states.

In CONGRESS, July 4, 1776.

The unanimous Declaration of the thirteen united States of America,

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.— We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,—That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it; and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.—Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries

and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.—He has refused his Assent to Laws, the most wholesome and necessary for the public good.—He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.—He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.—He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.—He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.—He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.—He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.—He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers—He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.—He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance.—He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.—He has affected to render the Military independent of and superior to the Civil power.—He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:—For Quartering large bodies of armed troops among us:—For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States:—For calling off our Trade with all parts of the world:—For imposing Taxes on us without our Consent:—For depriving us in many cases, of the benefits of Trial by Jury:—For transporting us beyond Seas to be tried for pretended offences—For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government,

and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:—For taking away our Charters, abolishing our most valuable Laws and altering fundamentally the Forms of our Governments:—For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.—He has abdicated Government here, by declaring us out of his Protection and waging War against us.—He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the Lives of our people.—He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.—He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.—He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions. In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people. Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.—

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that

as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do.—And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

1. Engrossed MS, DNA.

Signers of the Declaration of Independence

[Engrossed documents such as the Declaration of Independence were signed in the traditional north-to-south order, beginning with New Hampshire and ending with Georgia. Signatures were first written in the right hand column. When that column was filled, a new column was started to the left of it. In the following list of signers, abbreviations of Christian names have been spelled out and the names of the states have been inserted.]

NEW HAMPSHIRE

Josiah Bartlett
William Whipple
Matthew Thornton

MASSACHUSETTS

John Hancock
Samuel Adams
John Adams
Robert Treat Paine
Elbridge Gerry

RHODE ISLAND

Stephen Hopkins
William Ellery

CONNECTICUT

Roger Sherman
Samuel Huntington
William Williams
Oliver Wolcott

NEW YORK

William Floyd
Philip Livingston
Francis Lewis
Lewis Morris

NEW JERSEY

Richard Stockton
John Witherspoon
Francis Hopkinson
John Hart
Abraham Clark

PENNSYLVANIA

Robert Morris
Benjamin Rush
Benjamin Franklin
John Morton
George Clymer
James Smith
George Taylor
James Wilson
George Ross

DELAWARE

Caesar Rodney
George Read
Thomas McKean

MARYLAND

Samuel Chase
William Paca
Thomas Stone
Charles Carroll of Carrollton

VIRGINIA

George Wythe
Richard Henry Lee
Thomas Jefferson
Benjamin Harrison
Thomas Nelson, Jr.
Francis Lightfoot Lee
Carter Braxton

NORTH CAROLINA

William Hooper
Joseph Hewes
John Penn

SOUTH CAROLINA

Edward Rutledge, Jr.
Thomas Heyward, Jr.
Thomas Lynch, Jr.
Arthur Middleton

GEORGIA

Button Gwinnett
Lyman Hall
George Walton

IV. STATE BILLS OF RIGHTS AND CONSTITUTIONS 1776–1790

Introduction

Americans have always been a constitutionally-oriented people. When first establishing colonies, they lived under charters written in England that provided for a frame of government, representation in a legislative body, and often protection for basic rights. Twelve of the thirteen mainland English colonies were established during the reign of the Stuart kings during which time there was significant distrust of the king and his ministers. This distrust was also manifested in the American colonies toward all government officials. Consequently, during the 170 years before they declared their independence, colonial Americans enacted statutes protecting a wide variety of rights. As the imperial crisis intensified and provincial congresses replaced governments loyal to the king and Parliament, the new American leaders wanted to establish new constitutions. In October 1775, the provincial legislatures of New Hampshire and South Carolina asked the Second Continental Congress for advice. Congress appointed a committee to consider the matter. In response to New Hampshire's plea, the committee reported on 3 November and Congress resolved

That it be recommended to the provincial Convention of New Hampshire, to call a full and free representation of the people, and that the representatives, if they think it necessary, establish such a form of government, as, in their judgment, will best produce the happiness of the people, and most effectually secure peace and good order in the province, during the continuance of the present dispute between G Britain and the colonies (JCC, III, 319).

The next day, Congress passed a similar resolution for South Carolina.

Thomas Paine, in his widely popular pamphlet *Common Sense* published in January 1776, suggested that Americans should adopt very democratic constitutions; while, in response, John Adams in his pamphlet *Thoughts on Government* published in April 1776 recommended that the new constitutions should create far more balanced governments. On 10 and 15 May 1776 Congress recommended that all of the colonies should create new constitutions amenable to the people, not to the Crown.

Between 1776 and 1790 every American state, except Rhode Island, drafted a state constitution or a bill of rights. Some states did both.

The rights in these documents provided abundant examples for those who drafted the Federal Bill of Rights. Below, organized by state, are the ten state bills of rights and excerpts from state constitutions which contain rights. Several states wrote multiple constitutions during this period, but only those constitutions which contain rights have been excerpted below. In the case that a subsequent state constitution contained virtually identical rights to an earlier version, only excerpts from the latest constitution have been included. Unless stated otherwise in the footnotes, the text of all of the constitutions and bills of rights in this section have been taken from the 1786 pamphlet compilation of state constitutions printed on order from Congress by Eleazer Oswald in New York City (Evans 20064).

**Antecedents of the U.S. Bill of Rights
Found in the Revolutionary Era
Declarations of Rights and State Constitutions**

No Established Religion

Delaware Constitution, Article 29
New Jersey Constitution, Article XIX
North Carolina Constitution, Article 34

Free Exercise of Religion

Virginia Declaration of Rights, Section 16
New Jersey Constitution, Article XVIII
Pennsylvania Declaration of Rights, Article II
Delaware Declaration of Rights, Section 2
Maryland Declaration of Rights, Article XXXIII
North Carolina Declaration of Rights, Article XIX
Georgia Constitution, Article LVI
New York Constitution, Article XXXVIII
Vermont Declaration of Rights, Article III
South Carolina Constitution, Article XXXVIII; Article VIII: I
Massachusetts Declaration of Rights, Article II
New Hampshire Bill of Rights, Article XIV

Freedom of Speech

Pennsylvania Declaration of Rights, Article XII
Vermont Declaration of Rights, Article XIV
New York Bill of Rights (1787), Section 11

Freedom of the Press

Virginia Declaration of Rights, Section 12
 Pennsylvania Declaration of Rights, Article XII; Constitution, Section 35
 Delaware Declaration of Rights, Section 23
 Maryland Declaration of Rights, Article XXXVIII
 North Carolina Declaration of Rights, Article XV
 Georgia Constitution, Article LXI
 Vermont Declaration of Rights, Article XIV
 South Carolina Constitution, Article XLIII
 Massachusetts Declaration of Rights, Article XVI
 New Hampshire Bill of Rights, Article XXII

Right of Assembly

Pennsylvania Declaration of Rights, Article, XVI
 North Carolina Declaration of Rights, Article XVIII
 Massachusetts Declaration of Rights, Article XIX
 New Hampshire Bill of Rights, Article XXXII

Right to Petition

Pennsylvania Declaration of Rights, Article XVI
 Delaware Declaration of Rights, Section 9
 Maryland Declaration of Rights, Article XI
 Massachusetts Declaration of Rights, Article XIX
 New Hampshire Bill of Rights, Article XXXII
 New York Bill of Rights (1787), Section 10

Right to Bear Arms

Pennsylvania Declaration of Rights, Article XIII
 North Carolina Declaration of Rights, Article XVII
 Vermont Declaration of Rights, Article 18
 Massachusetts Declaration of Rights, Article XVII

No Quartering of Soldiers

Delaware Declaration of Rights, Section 21
 Maryland Declaration of Rights, Article XXVIII
 Massachusetts Declaration of Rights, Article XXVIII
 New Hampshire Bill of Rights, Article XXVII
 New York Bill of Rights (1787), Section 13

No Unreasonable Searches and Seizures

Virginia Declaration of Rights, Section 10
 Pennsylvania Declaration of Rights, Article IX
 Delaware Declaration of Rights, Section 17

Maryland Declaration of Rights, Article XXIII
 North Carolina Declaration of Rights, Article X
 Vermont Declaration of Rights, Article 12
 Massachusetts Declaration of Rights, Article XIV
 New Hampshire Bill of Rights, Article XIX

Grand Jury Indictment

North Carolina Declaration of Rights, Article VIII
 New York Bill of Rights (1787), Section 3

No Double Jeopardy

New Hampshire Bill of Rights, Article XVI

No Self-Incrimination

Virginia Declaration of Rights, Section 8
 Pennsylvania Declaration of Rights, Article IX
 North Carolina Declaration of Rights, Article VII
 Vermont Declaration of Rights, Article 11
 Massachusetts Declaration of Rights, Article XII
 New Hampshire Bill of Rights, Article XV

Due Process of Law

Virginia Declaration of Rights, Section 8
 Pennsylvania Declaration of Rights, Article IX
 North Carolina Declaration of Rights, Article XI
 Connecticut Declaration of Rights, Section 2
 New York Constitution, Article XIII
 Vermont Declaration of Rights, Article 11
 South Carolina Constitution, Article XLI; 9:2
 Massachusetts Declaration of Rights, Article XII
 New Hampshire Bill of Rights, Article XV
 New York Bill of Rights (1787), Sections 2–5

Just Compensation for Taking Property

Vermont Declaration of Rights, Article 2
 Massachusetts Declaration of Rights, Article X
 Northwest Ordinance, Article 2

Speedy Trial

Virginia Declaration of Rights, Section 8
 Pennsylvania Declaration of Rights, Article IX
 Delaware Declaration of Rights, Section 14
 Maryland Declaration of Rights, Article XIX
 Vermont Declaration of Rights, Article 11

Public Trial

Pennsylvania Declaration of Rights, Article IX
 Vermont Declaration of Rights, Article 11

Jury Trial in Criminal Cases

Virginia Declaration of Rights, Section 8
 New Jersey Constitution, Article XXII
 Pennsylvania Declaration of Rights, Article IX
 Delaware Declaration of Rights, Section 14
 Maryland Declaration of Rights, Article XIX
 North Carolina Declaration of Rights, Article IX
 Georgia Constitution, Article LXI
 New York Constitution, Article XLI
 Vermont Declaration of Rights, Article X
 Massachusetts Declaration of Rights, Article XII
 New Hampshire Bill of Rights, Article XVI
 South Carolina Constitution, Article 9:6
 Northwest Ordinance, Article 2

Right to Be Informed of Accusation

Virginia Declaration of Rights, Section 8
 Pennsylvania Declaration of Rights, Article IX
 Delaware Declaration of Rights, Section 14
 Maryland Declaration of Rights, Article XIX
 North Carolina Declaration of Rights, Article VII
 Vermont Declaration of Rights, Article 11
 Massachusetts Declaration of Rights, Article XII
 New Hampshire Bill of Rights, Article XV
 New York Bill of Rights (1787), Section 4

Right to Confront Witnesses

Virginia Declaration of Rights, Section 8
 Pennsylvania Declaration of Rights, Article IX
 Delaware Declaration of Rights, Section 14
 Maryland Declaration of Rights, Article XIX
 North Carolina Declaration of Rights, Article VII
 Vermont Declaration of Rights, Article 11
 Massachusetts Declaration of Rights, Article XII
 New Hampshire Bill of Rights, Article XV

Right to Summon Witnesses in One's Defense

New Jersey Constitution, Article XVI
 Pennsylvania Declaration of Rights, Article IX
 Delaware Declaration of Rights, Section 14

Maryland Declaration of Rights, Article XIX
 Massachusetts Declaration of Rights, Article XII
 New Hampshire Bill of Rights, Article XV

Right to Counsel

New Jersey Constitution, Article XVI
 Pennsylvania Declaration of Rights, Article IX
 Delaware Declaration of Rights, Section 14
 Maryland Declaration of Rights, Article XIX
 New York Constitution, Article XXXIV
 Vermont Declaration of Rights, Article X
 Massachusetts Declaration of Rights, Article XII
 New Hampshire Bill of Rights, Article XV

Trial by Jury in Civil Cases

Virginia Declaration of Rights, Section 11
 Pennsylvania Declaration of Rights, Article XI; Constitution, Section 25
 North Carolina Declaration of Rights, Article XIV
 Vermont Declaration of Rights, Article XIII
 Massachusetts Declaration of Rights, Article XV
 New Hampshire Bill of Rights, Article XX

No Excessive Bail

Virginia Declaration of Rights, Section 9
 Pennsylvania Constitution, Section 29
 Delaware Declaration of Rights, Section 16
 Maryland Declaration of Rights, Article XXII
 North Carolina Declaration of Rights, Article X
 Connecticut Declaration of Rights, Section 4
 Georgia Constitution, Article LIX
 Massachusetts Declaration of Rights, Article XXVI
 New Hampshire Bill of Rights, Article XXXIII
 New York Bill of Rights (1787), Section 8
 South Carolina Constitution (1790) Article 9:4
 Northwest Ordinance, Article 2

No Excessive Fines

Virginia Declaration of Rights, Section 9
 Pennsylvania Constitution, Section 29; Constitution, Sections 38, 39
 Delaware Declaration of Rights, Section 16
 Maryland Declaration of Rights, Article XXII
 North Carolina Declaration of Rights, Article X
 Georgia Constitution, Article LIX
 Massachusetts Declaration of Rights, Article XXVI
 New Hampshire Bill of Rights, Article XXXIII

New York Bill of Rights (1787), Section 8
 Vermont Constitution, Section 29
 Northwest Ordinance, Article 2

No Cruel and Unusual Punishments

Virginia Declaration of Rights, Section 9
 Delaware Declaration of Rights, Section 16
 Maryland Declaration of Rights, Article XXII
 North Carolina Declaration of Rights, Article X
 South Carolina Constitution, Article IX, 4
 Massachusetts Declaration of Rights, Article XXVI
 New Hampshire Bill of Rights, Article XXXIII
 New York Bill of Rights (1787), Section 8
 Northwest Ordinance, Article 2

Reserved Powers

Massachusetts Declaration of Rights, Article IV
 New Hampshire Bill of Rights, Article VII

Connecticut

Connecticut Bill of Rights, 1786

An Act containing an Abstract and Declaration of the Rights and Privileges of the People of this State, and securing the same.¹

The People of this State, being by the Providence of God, free and independent, have the sole and exclusive Right of governing themselves as a free, sovereign, and independent State; and having from their Ancestors derived a free and excellent Constitution of Government, whereby the Legislature depends on the free and annual Election of the People, they have the best Security for the Preservation of their civil and religious Rights and Liberties. And forasmuch as the free Fruition of such Liberties and Privileges as Humanity, Civility and Christianity call for, as is due to every Man in his Place and Proportion, without Impeachment and Infringement, hath ever been, and will be the Tranquility and Stability of Churches and Commonwealths; and the denial thereof, the Disturbance, if not the Ruin of both.

Be it Enacted and Declared by the Governor, Council and Representatives, in General Court assembled, and by the Authority of the same, That the ancient Form of Civil Government, contained in the Charter from Charles the Second, King of England, and adopted by the People of this State, shall be and remain the Civil Constitution of this State, under the sole Authority of the People thereof, independent of any King or Prince whatever. And that this Republic is, and shall forever be and remain, a free, sovereign and independent State, by the Name of the STATE of CONNECTICUT.

And be it further Enacted and Declared by the Authority aforesaid, That no Man's Life shall be taken away: No Man's Honor or good Name shall be stained: No Man's Person shall be arrested, restrained, banished, dismembered, nor any ways punished: No Man shall be deprived of his Wife or Children: No Man's Goods or Estate shall be taken away from him, nor any ways indamaged under the colour of Law, or countenance of Authority; unless clearly warranted by the Laws of this State.

That all the free Inhabitants of this or any other of the United States of *America*, and Foreigners in Amity with this State, shall enjoy the same Justice and Law within this State, which is general for the State, in all Cases, proper for the Cognizance of the Civil Authority and Courts of Judicature within the same, and that without Partiality or Delay.

And that no Man's Person shall be restrained, or imprisoned, by any Authority whatsoever, before the Law hath sentenced him thereunto, if he can and will give sufficient Security, Bail, or Mainprize for his Appearance and good Behaviour in the mean Time, unless it be for Capital Crimes, Contempt in open Court, or in such Cases wherein some express Law doth allow of, or order the same.

1. *Acts and Laws of the State of Connecticut, in America* (New-London, 1784) (Evans 18409), 1–2.

Delaware

Delaware Declaration of Rights, 1776¹

*A DECLARATION of RIGHTS and Fundamental Rules of the Delaware State,*² formerly stiled, The Government of the Counties of New Castle, Kent, and Sussex, upon Delaware.

1. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole.

2. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understandings; and that no man ought, or of right can be compelled to attend any religious worship, or maintain any ministry, contrary to or against his own free will and consent, and that no authority can or ought to be vested in, or assumed by any power whatever, that shall in any case interfere with, or in any manner controul the right of conscience, in the free exercise of religious worship.

3. That all persons professing the Christian religion, ought forever to enjoy equal rights and privileges in this state, unless under colour of religion, any man disturb the peace, the happiness or safety of society.

4. That the people of this state have the sole, exclusive, and inherent right of governing and regulating the internal police of the same.

5. That persons intrusted with the legislative and executive powers are the trustees and servants of the public, and as such, accountable for their conduct; wherefore, whenever the ends of government are perverted, and public liberty manifestly endangered by the legislative singly, or a treacherous combination of both, the people may, and of right ought to establish a new, or reform the old government.

6. That the right in the people to participate in the legislature, is the foundation of liberty and of all free government, and for this end all elections ought to be free and frequent, and every freeman having sufficient evidence of a permanent common interest with, and attachment to the community, hath a right of suffrage.

7. That no power of suspending laws, or the execution of laws, ought to be exercised unless by the legislature.

8. That for redress of grievances, and for amending and strengthening of the laws, the legislature ought to be frequently convened.

9. That every man hath a right to petition the legislature for the redress of grievances, in a peaceable and orderly manner.

10. That every member of society hath a right to be protected in the enjoyment of life, liberty, and property, and therefore is bound to contribute his proportion towards the expence of that protection, and yield his personal service when necessary, or an equivalent thereto; but no part of a man's property can be justly taken from him, or applied to public uses, without his own consent, or that of his legal representatives: Nor can any man that is conscientiously scrupulous of bearing arms in any case, be justly compelled thereto, if he will pay such equivalent.

11. That retrospective laws, punishing offences committed before the existence of such laws, are oppressive and unjust, and ought not to be made.

12. That every freeman, for every injury done him in his goods, lands, or person, by any other person, ought to have remedy by the course of the law of the land, and ought to have justice and right for the injury done to him, freely without sale, fully without any denial, and speedily without delay, according to the law of the land.

13. That trial by jury of facts where they arise, is one of the greatest securities of the lives, liberties, and estates of the people.

14. That in all prosecutions for criminal offences, every man hath a right to be informed of the accusation against him, to be allowed counsel, to be confronted with the accusers or witnesses, to examine evidence on oath in his favour, and to a speedy trial, by an impartial jury, without whose unanimous consent he ought not to be found guilty.

15. That no man in the courts of common law ought to be compelled to give evidence against himself.

16. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

17. That all warrants without oath to search suspected places, or to seize any person or his property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend all persons suspected, without naming or describing the place or any person in special, are illegal, and ought not to be granted.

18. That a well regulated militia is the proper, natural, and safe defence of a free government.

19. That standing armies are dangerous to liberty, and ought not to be raised or kept up without the consent of the legislature.

20. That in all cases and at all times the military ought to be under strict subordination to, and governed by the civil power.

21. That no soldier ought to be quartered in any house in time of peace, without the consent of the owner; and in time of war in such manner only as the legislature shall direct.

22. That the independency and uprightness of judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people.

23. That the liberty of the press ought to be inviolably preserved.

Delaware Constitution, 1776 (excerpts)²

25. The common law of England, as well as so much of the statute law as has been heretofore adopted in practice in this state, shall remain in force, unless they shall be altered by a future law of the legislature; such parts only excepted as are repugnant to the rights and privileges contained in this constitution and the declaration of rights, &c. agreed to by this convention.

26. No person hereafter imported into this state from Africa, ought to be held in slavery under any pretence whatever, and no negro, indian or mulatto slave, ought to be brought into this state for sale from any part of the world. . . .

29. There shall be no establishment of any one religious sect in this state in preference to another; and no clergyman or preacher of the gospel of any denomination shall be capable of holding any civil office in this state, or of being a member of either of the branches of the legislature, while they continue in the exercise of the pastoral function.

30. No article of the declaration of rights and fundamental rules of this state, agreed to by this convention, nor the first, second, fifth (ex-

cept that part thereof that relates to the right of sufferage) twenty-sixth and twenty-ninth articles of this constitution, ought ever to be violated on any pretence whatever. No other part of this constitution shall be altered, changed or diminished, without the consent of five parts in seven of the assembly, and seven members of the legislative council.

1. *The Constitutions of the Several Independent States of America . . .* (New York, 1786), 129–32. Thereafter cited in this section as *State Constitutions. Proceedings of the Convention of the Delaware state, held at New-Castle on Tuesday the twenty-seventh of August, 1776* (Wilmington, Delaware, [1776]) (Evans 43018), 14–16.

2. Printed: *State Constitutions*, 142–44. *Proceedings of the Convention of the Delaware state, held at New-Castle on Tuesday the twenty-seventh of August, 1776* (Wilmington, Delaware, [1776]) (Evans 43018), 27–28.

Georgia

Georgia Constitution, 1777 (excerpts)¹

37. All cases and matters of dispute, between any parties, residing in the same county, to be tried within the county.

38. All matters in dispute between contending parties, residing in different counties, shall be tried in the county where the defendant resides; except in cases of real estate, which shall be tried in the county where such real estate lies.

39. All matters of breach of the peace, felony, murder, and treason against the state, to be tried in the county, where the same was committed. All matters of dispute, both civil and criminal, in any county, where there is not a sufficient number of inhabitants, to form a court, shall be tried in the next adjacent county, where a court is held.

40. All causes of what nature soever, shall be tried in the superior court, except as hereafter mentioned; which court shall consist of the chief-justice, and three or more of the justices residing in the county; in case of the absence of the chief-justice, the senior justice on the bench shall act as chief-justice, with the clerk of the county, attorney for the state, sheriff, coroner, constable, and the jurors. And in case of the absence of any of the aforementioned officers, the justices on the bench to appoint others in their room *pro tempore*. And if any plaintiff or defendant in civil causes shall be dissatisfied with the determination of the jury, then, and in that case, they shall be at liberty within three days, to enter an appeal from that verdict; and demand a new trial by a special jury, to be nominated as follows, *viz.* Each party, plaintiff, and defendant, shall choose six, six more names shall be taken indifferently out of a box provided for that purpose, the whole eighteen to be summoned, and their names to be put together into the box, and the first

twelve that are drawn out, being present, shall be the special jury to try the cause, and from which there shall be no appeal. . . .

48. All the costs attending any action in the superior court shall not exceed the sum of three pounds, and that no cause be allowed to depend in the superior court longer than two terms. . . .

56. All persons whatever shall have the free exercise of their religion; provided it be not repugnant to the peace and safety of the state; and shall not, unless by consent, support any teacher, or teachers, except those of their own profession. . . .

58. No person shall be allowed to plead in the courts of law, in this State, except those who are authorised so to do, by the house of assembly; and if any person so authorised shall be found guilty of mal-practice before the house of assembly, they shall have power to suspend them. This is not intended to exclude any person from that inherent privilege of every freeman, the liberty to plead his own cause.

59. Excessive fines shall not be levied, nor excessive bail demanded.

60. The principles of the habeas corpus act, shall be part of this constitution.

61. Freedom of the press, and trial by jury, to remain inviolate forever.

62. No clergyman, of any denomination, shall be allowed a seat in the legislature.

63. No alteration shall be made in this constitution without petitions from a majority of the counties, and the petitions from each county to be signed by a majority of voters in each county within this state. At which time the assembly shall order a convention to be called for that purpose, specifying the alterations to be made, according to the petitions preferred to the assembly by the majority of the counties, as aforesaid.

Georgia Constitution, 1789 (excerpts)²

ARTICLE I

Sec. 18. No clergyman of any denomination shall be a member of the general assembly.

ARTICLE III

Sec. 2. The general assembly shall point out the mode of correcting errors and appeals, which shall extend so far as to empower the judges to direct a new trial by jury within the county where the action originated, and which shall be final. . . .

Sec. 4 All causes shall be tried in the county where the defendant resides except in cases of real estate, which shall be tried in the county

where such estate lies, and in criminal cases, which shall be tried in the county where the crime shall be committed.

ARTICLE IV

Sec. 3. Freedom of the press and trial by jury shall remain inviolate.

Sec. 4. All persons shall be entitled to the benefit of the writ of *habeas corpus*.

Sec. 5. All persons shall have the free exercise of religion, without being obliged to contribute to the support of any religious profession but their own.

1. Printed: *State Constitutions*, 229–33. *The Constitution of the State of Georgia* (Savannah, 1777) (Evans 15308), 8–9, 11.

2. *The Constitution of the State of Georgia, Ratified the 6th of May, 1789* (Augusta, 1789) (Evans 21850), 20–21.

Maryland

Maryland Declaration of Rights, 1776¹

A DECLARATION of RIGHTS, &c.

The parliament of Great-Britain, by a declaratory act, having assumed a right to make laws to bind the colonies in all cases whatsoever, and in pursuance of such claim endeavoured by force of arms to subjugate the United Colonies to an unconditional submission to their will and power, and having at length constrained them to declare themselves independent states, and to assume government under the authority of the people—Therefore, we, the delegates of Maryland, in free and full convention assembled, taking into our most serious consideration the best means of establishing a good constitution in this state, for the sure foundation and more permanent security thereof, declare,

1. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole.

2. That the people of this state ought to have the sole and exclusive right of regulating the internal government and police thereof.

3. That the inhabitants of Maryland are entitled to the common law of England, and the trial by jury, according to the course of that law, and to the benefit of such of the English statutes, as existed at the time of their first emigration, and which by experience have been found applicable to their local and other circumstances, and of such others as have been since made in England, or Great-Britain, and have been introduced, used, and practised, by the courts of law or equity; and also to all acts of assembly in force on the first of June, seventeen hundred

and seventy-four, except such as may have since expired, or have been, or may be altered by acts of convention, or this declaration of rights, subject nevertheless to the revision of, and amendment or repeal by, the legislature of this state; and the inhabitants of Maryland are also entitled to all property derived to them from or under the charter granted by his majesty Charles I. to Cæcilius Calvert, baron of Baltimore.

4. That all persons invested with the legislative or executive powers of government are the trustees of the public, and as such accountable for their conduct; wherefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought, to reform the old or establish a new government; the doctrine of non-resistance against arbitrary power and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.

5. That the right in the people to participate in the legislature is the best security of liberty, and the foundation of all free government; for this purpose, elections ought to be free and frequent, and every man having property in, a common interest with, and attachment to the community, ought to have a right of suffrage.

6. That the legislative, executive, and judicial powers of government, ought to be forever separate and distinct from each other.

7. That no power of suspending laws, or the execution of laws, unless by, or derived from the legislature, ought to be exercised or allowed.

8. That freedom of speech and debates, or proceedings in the legislature, ought not to be impeached in any other court or judicature.

9. That a place for the meeting of the legislature ought to be fixed, the most convenient to the members thereof, and to the depository of public records, and the legislature ought not to be convened or held at any other place, but from evident necessity.

10. That for redress of grievances, and for amending, strengthening and preserving the laws, the legislature ought to be frequently convened.

11. That every man hath a right to petition the legislature for the redress of grievances, in a peaceable and orderly manner.

12. That no aid, charge, tax, fee or fees, ought to be set, rated, or levied, under any pretence, without consent of the legislature.

13. That the levying taxes by the poll is grievous and oppressive, and ought to be abolished; that paupers ought not to be assessed for the support of government, but every other person in the state ought to contribute his proportion of public taxes for the support of government, according to his actual worth in real or personal property within the state; yet fines, duties, or taxes, may properly and justly be imposed or laid with a political view for the good government and Benefit of the community.

14. That sanguinary laws ought to be avoided, as far as is consistent with the safety of the state; and no law to inflict cruel and unusual pains and penalties ought to be made in any case, or at any time hereafter.

15. That retrospective laws, punishing facts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, wherefore no *ex post facto* law ought to be made.

16. That no law to attain particular persons of treason or felony ought to be made in any case, or any time hereafter.

17. That every freeman, for any injury done him in his person or property, ought to have remedy by the course of the law of the land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the law of the land.

18. That the trial of facts where they arise, is one of the greatest securities of the lives, liberties and estates of the people.

19. That in all criminal prosecutions, every man hath a right to be informed of the accusation against him, to have a copy of the indictment or charge in due time (if required) to prepare for his defence, to be allowed counsel, to be confronted with the witnesses against him, to have process for his witnesses, to examine the witnesses for and against him on oath, and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

20. That no man ought to be compelled to give evidence against himself in a common court of law, or in any other court, but in such cases as have been usually practised in this state, or may hereafter be directed by the legislature.

21. That no freeman ought to be taken or imprisoned, or disseised of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the law of the land.

22. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted by the courts of law.

23. That all warrants without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal, and ought not to be granted.

24. That there ought to be no forfeiture of any part of the estate of any person for any crime, except murder, or treason against the state, and then only on conviction and attainder.

25. That a well regulated militia is the proper and natural defence of a free government.

26. That standing armies are dangerous to liberty, and ought not to be raised or kept up without consent of the legislature.

27. That in all cases and at all times the military ought to be under strict subordination to, and controul of the civil power.

28. That no soldier ought to be quartered in any house in time of peace, without the consent of the owner; and in time of war, in such manner only as the legislature shall direct.

29. That no person, except regular soldiers, mariners, and marines in the service of this state, or militia when in actual service, ought in any case to be subject to, or punishable by, martial law.

30. That the independency and uprightness of judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people; wherefore the chancellor and judges ought to hold commissions during good behaviour, and the said chancellor and judges shall be removed for misbehaviour, on conviction in a court of law, and may be removed by the governor upon the address of the general assembly, provided that two thirds of all the members of each house concur in such address. That salaries liberal but not profuse ought to be secured to the chancellor and the judges during the continuance of their commissions, in such manner and at such times as the legislature shall hereafter direct, upon consideration of the circumstances of this state: No chancellor or judge ought to hold any other office, civil or military, or receive fees or perquisites of any kind.

31. That a long continuance in the first executive departments of power or trust is dangerous to liberty, a rotation therefore in those departments is one of the best securities of permanent freedom.

32. That no person ought to hold at the same time more than one office of profit, nor ought any person in public trust to receive any present from any foreign prince or state, or from the United States, or any of them, without the approbation of this state.

33. That as it is the duty of every man to worship God in such manner as he thinks most acceptable to him, all persons professing the Christian religion are equally entitled to protection in their religious liberty; wherefore no person ought by any law to be molested in his person or estate, on account of his religious persuasion or profession, or for his religious practice, unless under colour of religion, any man shall disturb the good order, peace, or safety of the state, or shall infringe the laws of morality, or injure others in their natural, civil, or religious rights; nor ought any person to be compelled to frequent or maintain, or contribute, unless on contract, to maintain any particular place of worship, or any particular ministry; yet the legislature may in their discretion lay a general and equal tax for the support of the Christian

religion; leaving to each individual the power of appointing the payment over of the money collected from him, to the support of any particular place of worship or minister, or for the benefit of the poor of his own denomination, or the poor in general of any particular country; but the churches, chapels, glebes, and all other property now belonging to the church of England, ought to remain to the church of England for ever. And all acts of assembly lately passed for collecting monies for building or repairing particular churches or chapels of ease, shall continue in force and be executed, unless the legislature shall by act supersede or repeal the same; but no county court shall assess any quantity of tobacco or sum of money hereafter, on the application of any vestrymen or church-wardens; and every incumbent of the church of England, who hath remained in his parish and performed his duty, shall be entitled to receive the provision and support established by the act, entitled, "An act for the support of the clergy of the church of England in this province," till the November court of this present year, to be held for the county in which his parish shall lie, or partly lie, or for such time as he hath remained in his parish and performed his duty.

34. That every gift, sale, or devise of lands to any minister[,] public teacher or preacher of the gospel, as such, or to any religious sect, order, or denomination, or to, or for the support, use, or benefit of, or in trust for, any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination; and every gift or sale of goods or chattels to go in succession, or to take place after the death of the seller or donor, or to or for such support, use or benefit; and also every devise of goods or chattels to, or for the support, use or benefit of any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order or denomination, without the leave of the legislature, shall be void; except always any sale, gift, lease or devise of any quantity of land not exceeding two acres, for a church, meeting or other house of worship, and for a burying ground, which shall be improved, enjoyed, or used only for such purpose, or such sale, gift, lease, or devise, shall be void.

35. That no other test or qualification ought to be required on admission to any office of trust or profit, than such oath of support and fidelity to this state, and such oath of office as shall be directed by this Convention, or the legislature of this state, and a declaration of a belief in the Christian religion.

36. That the manner of administering an oath to any person, ought to be such as those of the religious persuasion, profession, or denomination, of which such person is one, generally esteem the most effec-

tual confirmation by the attestation of the Divine Being. And that the people called Quakers, those called Dunkers, and those called Menonists, holding it lawful to take an oath on any occasion, ought to be allowed to make their solemn affirmation in the manner that Quakers have been heretofore allowed to affirm, and to be of the same avail as an oath in all such cases, as the affirmation of Quakers hath been allowed and accepted within this state instead of an oath. And further, on such affirmation, warrants to search for stolen goods, or the apprehension or commitment of offenders, ought to be granted, or security for the peace awarded, and Quakers, Dunkers, or Menonists, ought also, on their solemn affirmation as aforesaid, to be admitted as witnesses in all criminal cases not capital.

37. That the city of Annapolis ought to have all its rights, privileges, and benefits, agreeable to its charter, and the acts of assembly confirming and regulating the same, subject nevertheless to such alteration as may be made by this convention or any future legislature.

38. That the liberty of the press ought to be inviolably preserved.

39. That monopolies are odious, contrary to the spirit of a free government, and the principles of commerce, and ought not to be suffered.

40. That no title of nobility or hereditary honors ought to be granted in this state.

41. That the subsisting resolves of this and the several conventions held for this colony, ought to be in force as laws, unless altered by this convention or the legislature of this state.

42. That this declaration of rights, or the form of government to be established by this convention, or any part of either of them, ought not to be altered, changed, or abolished by the legislature of this state, but in such manner as this convention shall prescribe and direct.

This declaration of rights was assented to and passed in convention of the delegates of the freemen of Maryland, begun and held at Annapolis the 14th day of August, A.D. 1776.

By order of the convention,

MAT. TILGHMAN, *President.*

Maryland Constitution, 1776²

59. That this form of government, and the declaration of rights, and no part thereof, shall be altered, changed, or abolished, unless a bill so to alter, change, or abolish the same, shall pass the general assembly, and be published at least three months before a new election, and shall be confirmed by the general assembly after a new election of delegates,

in the first session after such new election; provided that nothing in this form of government, which relates to the eastern shore particularly, shall at any time hereafter be altered unless for the alteration and confirmation thereof at least two thirds of all the members of each branch of the general assembly shall concur.

1. Printed: *State Constitutions*, 145–54. *The Declaration of Rights, and the Constitution and Form of Government, established by the Convention of Maryland, Held at the City of Annapolis, on Wednesday the 14th of August, anno domini 1776* (Annapolis, 1776) (Evans 43060), 1–7.

2. Printed: *State Constitutions*, 174–75. *The Declaration of Rights, and the Constitution and Form of Government, established by the Convention of Maryland, Held at the City of Annapolis, on Wednesday the 14th of August, anno domini 1776* (Annapolis, 1776) (Evans 43060), 23.

Massachusetts

Massachusetts Preamble and Declaration of Rights, 1780

Preamble¹

The end of the institution, maintenance and administration of government, is to secure the existence of the body-politic, to protect it, and to furnish the individuals who compose it, with the power of enjoying, in safety and tranquility, their natural right, and the blessings of life: And whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness.

The body-politic is formed by a voluntary association of individuals: It is a social compact, by which the whole people covenants with each citizen, and each citizen, with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation, and a faithful execution of them; that every man may, at all times, find his security.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the Great Legislator of the Universe, in affording us, in the course of his providence, an opportunity, deliberately, and peaceably, without fraud, violence, or surprize, of entering into an original, explicit, and solemn compact with each other; and of forming a new constitution of civil government, for ourselves and posterity; and devoutly imploring his direction in so interesting a design, DO agree upon, ordain, and establish, the following *declaration of rights*, and *frame of government*, as the CONSTITUTION of the COMMONWEALTH of MASSACHUSETTS.

PART I.

*A DECLARATION of the RIGHTS, of the Inhabitants of the Commonwealth of Massachusetts.*²

Art. I. ALL men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

II. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the Supreme Being, the great Creator and Preserver of the Universe. And no subject shall be hurt, molested, or restrained in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

III. As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion, and morality; and as these cannot be generally diffused through a community, but by the institution of the public worship of God, and of public instructions in piety, religion and morality: Therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorise and require, and the legislature shall, from time to time, authorise and require the several towns, parishes, precincts, and other bodies-politic, or religious societies, to make suitable provision, at their own expence for the institution of the public worship of God, and for the support and maintenance of public protestant teachers of piety, religion, and morality, in all cases where such provision shall not be made voluntarily.

And the people of this commonwealth, have also a right to, and do, invest their legislature with authority to enjoin, upon all the subjects, an attendance upon the instructions of the public teachers as aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

Provided notwithstanding, that the several towns, parishes, precincts, and other bodies-politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance.

And all monies paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly

applied to the support of the public teacher or teachers, of his own religious sect or denomination, provided there be any on whose instructions he attends; otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said monies are raised.

And every denomination of Christians demeaning themselves peaceably, and as good subjects of the commonwealth, shall be equally under the protection of the law: And no subordination of any one sect or denomination to another, shall ever be established by law.

IV. The people of this commonwealth have the sole and exclusive right of governing themselves as a free, sovereign, and independent state; and do, and for ever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter, be by them expressly delegated to the United States of America, in Congress assembled.

V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

VI. No man, or corporation, or association of men have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary nor transmissible to children, or descendents, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

VII. Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people; and not for the profit, honour, or private interest of any one man, family, or class of men: Therefore the people alone have an incontestible, unalienable, and indefeasible right, to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it.

VIII. In order to prevent those, who are vested with authority from becoming oppressors, the people have a right, at such periods, and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places, by certain and regular elections and appointments.

IX. All elections ought to be free, and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected for public employments.

X. Each individual of the society has a right to be protected by it, in the enjoyment of his life, liberty, and property, according to standing laws. He is obliged, consequently, to contribute his share to the expence of this protection; to give his personal service, or an equivalent, when necessary: But no part of the property of any individual, can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people: In fine, the people of this commonwealth are not controulable by any other laws, than those to which their constitutional representative body have given their consent. And whenever the public exigencies require, that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

XI. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws for all injuries or wrongs which he may receive in his person, property or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.

XII. No subject shall be held to answer for any crime or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favourable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his council, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

And the legislature shall not make any law, that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

XIII. In criminal prosecutions, the verification of facts in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

XIV. Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in the warrant to a civil officer, to make search in all suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and

no warrant ought to be issued, but in cases and with the formalities prescribed by the laws.

XV. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practised, the parties have a right to a trial by a jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners wages, the legislature shall hereafter find it necessary to alter it.

XVI. The liberty of the press is essential to the security of freedom in a state; it ought not, therefore, to be restrained in this commonwealth.

XVII. The people have a right to keep and to bear arms for the common defence. And as in time of peace armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature, and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

XVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary, to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: And they have a right to require of their lawgivers and magistrates, an exact and constant observance of them, in the formation and execution of all laws necessary for the good administration of the commonwealth.

XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives; and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

XX. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.

XXI. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation, or prosecution, action, or complaint, in any other court or place whatsoever.

XXII. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require.

XXIII. No subsidy, charge, tax, impost, or duties, ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature.

XXIV. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

XXVI. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made, but by the civil magistrate, in a manner ordained by the legislature.

XXVIII. No person can in any case be subjected to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent, as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honourable salaries, ascertained and established by standing laws.

XXX. In the government of this Commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: The executive shall never exercise the legislative and judicial powers, or either of them: The judicial shall never exercise the legislative and executive powers, or either of them: to the end, it may be a government of laws, and not of men.

Massachusetts Constitution, 1780 (excerpts)³

VII. The privilege and benefit of the writ of habeus-corpis shall be enjoyed in this commonwealth, in the most free, easy, cheap, expeditious and ample manner; and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

1. Printed: *State Constitutions*, 10–11. *A Constitution or Frame of Government, Agreed upon by the Delegates of the People of the State of Massachusetts-Bay . . . (Revised and Corrected)* (Boston, 1780) (Evans 16845), 5–6.

2. Printed: *State Constitutions*, 11–19. *Ibid.*, 7–13. The body of the Constitution (“Part The Second”) follows on pp. 13–43. For the Constitution, see also Thorpe, III, 1888–1911.

3. Printed: *State Constitutions*, 51. *A Constitution or Frame of Government, Agreed upon by the Delegates of the People of the State of Massachusetts-Bay . . . (Revised and Corrected)* (Boston, 1780) (Evans 16845), 42.

New Hampshire

New Hampshire Bill of Rights, 1784¹

PART I.

The BILL of RIGHTS.

ARTICLE I.

All men are born equally free and independent; therefore, all government of right originates from the people, is founded in consent, and instituted for the general good.

2. All men have certain natural, essential, and inherent rights; among which are—the enjoying and defending life and liberty—acquiring, possessing, and protecting property—and in a word, of seeking and obtaining happiness.

3. When men enter into a state of society, they surrender up some of their natural rights to that society, in order to insure the protection of others; and, without such an equivalent, the surrender is void.

4. Among the natural rights, some are in their very nature unalienable, because no equivalent can be given or received for them. Of this kind are the rights of conscience.

5. Every individual has a natural and unalienable right to worship GOD according to the dictates of his own conscience and reason; and no subject shall be hurt, molested, or restrained in his person, liberty, or estate for worshipping GOD, in the manner and season most agreeable to the dictates of his own conscience, or for his religious profession, sentiments or persuasion; provided he does not disturb the public peace, or disturb others in their religious worship.

6. As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay in the hearts of men the strongest obligations to due subjection; and as the knowledge of these, is most likely to be propagated through a society by the institution of the public worship of the *Deity*, and of public instruction in morality and religion; therefore, to promote those im-

portant purposes, the people of this state have a right to empower, and do hereby fully empower the legislature, to authorise from time to time, the several towns, parishes, bodies-corporate, or religious societies within this state, to make adequate provision at their own expence, for the support and maintenance of public protestant teachers of piety, religion and morality:

Provided notwithstanding, That the several towns, parishes, bodies-corporate, or religious societies, shall at all times have the exclusive right of electing their own public teachers, and of contracting with them for their support and maintenance. And no person of any one particular religious sect or denomination, shall ever be compelled to pay towards the support of the teacher or teachers of another persuasion, sect or denomination.

And every denomination of Christians demeaning themselves quietly, and as good subjects of the state, shall be equally under the protection of the law: and no subordination of any one sect or denomination to another, shall ever be established by law.

And nothing herein shall be understood to affect any former contracts made for the support of the ministry; but all such contracts shall remain, and be in the same state as if this constitution had not been made.

7. The people of this state, have the sole and exclusive right of governing themselves as a free, sovereign, and independent state, and do, and forever hereafter shall exercise and enjoy every power, jurisdiction, and right pertaining thereto, which is not, or may not hereafter be by them expressly delegated to the United States of America, in Congress assembled.

8. All power residing originally in, and being derived from the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them.

9. No office or place whatsoever in government, shall be hereditary—the abilities and integrity requisite in all, not being transmissible to posterity or relations.

10. Government being instituted for the common benefit, protection, and security of the whole community, and not for the private interest or emolument of any one man, family, or class of men; therefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought, to reform the old, or establish a new government. The doctrine of non-resistance against arbitrary power and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.

11. All elections ought to be free, and every inhabitant of the state, having the proper qualifications, has equal right to elect, and be elected into office.

12. Every member of the community has a right to be protected in the enjoyment of his life, liberty and property; he is therefore bound to contribute his share in the expence of such protection, and to yield his personal service when necessary, or an equivalent. But no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. Nor are the inhabitants of this state controulable by any other laws than those to which they or their representative body have given their consent.

13. No person who is conscientiously scrupulous about the lawfulness of bearing arms, shall be compelled thereto, provided he will pay an equivalent.

14. Every subject of this state is entitled to a certain remedy, by having recourse to the laws for all the injuries he may receive in his person, property or character, to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without delay, conformably to the laws.

15. No subject shall be held to answer for any crime, or offence, until the same is fully and plainly, substantially and formally described to him; or be compelled to accuse or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to himself; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, and counsel. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

16. No subject shall be liable to be tried, after an acquittal, for the same crime or offence. Nor shall the legislature make any law that shall subject any person to a capital punishment, excepting for the government of the army and navy, and the militia in actual service, without trial by jury.

17. In criminal prosecutions, the trial of facts in the vicinity where they happen, is so essential to the security of the life, liberty and estate of the citizen, that no crime or offence ought to be tried in any other county than that in which it is committed; except in cases of general insurrection in any particular county, when it shall appear to the judges of the superior court, that an impartial trial cannot be had in the county where the offence may be committed, and upon their report the as-

sembly shall think proper to direct the trial in the nearest county in which an impartial trial can be obtained.

18. All penalties ought to be proportioned to the nature of the offence. No wise legislature will affix the same punishment to the crimes of theft, forgery and the like, which they do to those of murder and treason; where the same undistinguished severity is exerted against all offences; the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do of the lightest dye: for the same reason a multitude of sanguinary laws is both impolitic and unjust. The true design of all punishments being to reform, not to exterminate, mankind.

19. Every subject hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath, or affirmation; and if the order in the warrant to a civil officer to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued but in cases, and with the formalities, prescribed by the laws.

20. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practised, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless in causes arising on the high sea, and such as relate to mariners wages, the legislature shall think it necessary hereafter to alter it.

21. In order to reap the fullest advantage of the inestimable privilege of the trial by JURY, great care ought to be taken that none but qualified persons should be appointed to serve; and such ought to be fully compensated for their travel, time and attendance.

22. The liberty of the press is essential to the security of freedom in a state; it ought therefore to be inviolably preserved.

23. Retrospective laws are highly injurious, oppressive and unjust. No such laws therefore should be made, either for the decision of civil causes, or the punishment of offences.

24. A well regulated militia is the proper, natural, and sure defence of a state.

25. Standing armies are dangerous to liberty, and ought not to be raised or kept up without the consent of the legislature.

26. In all cases, and at all times, the military ought to be under strict subordination to, and governed by the civil power.

27. No soldier in time of peace, shall be quartered in any house without the consent of the owner; and in time of war such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

28. No subsidy, charge, tax, impost or duty shall be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature, or authority derived from that body.

29. The power of suspending the laws, or the execution of them, ought never to be exercised but by the legislature, or by authority derived therefrom, to be exercised in such particular cases only as the legislature shall expressly provide for.

30. The freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any action, complaint, or prosecution, in any other court or place whatsoever.

31. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new ones, as the common good may require.

32. The people have a right, in an orderly and peaceable manner, to assemble and consult upon the common good, give instructions to their representatives; and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer.

33. No magistrate, or court of law, shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

34. No person can in any case be subjected to law-martial, or to any pains or penalties by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

35. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, that the judges of the supreme (or superior) judicial court should hold their offices so long as they behave well; and that they should have honorable salaries, ascertained and established by standing laws.

36. Economy, being a most essential virtue in all states, especially in a young one; no pension shall be granted, but in consideration of ac-

tual services, and such pensions ought to be granted with great caution, by the legislature, and never for more than one year at a time.

37. In the government of this state, the three essential powers thereof, *to wit*, the legislative, executive and judicial, ought to be kept as separate from, and independent of each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of unity and amity.

38. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to justice, moderation, temperance, industry, frugality, and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government; the people ought therefore, to have a particular regard to all those principles, in the choice of their officers and representatives: and they have a right to require of their lawgivers and magistrates, and exact and constant observance of them in the formation and execution of the laws necessary for the good administration of government.

New Hampshire Constitution, 1784 (excerpts)²

The estates of such persons as may destroy their own lives, shall not for that offence be forfeited, but descend or ascend in the same manner, as if such persons had died in a natural way. Nor shall any article, which shall accidentally occasion the death of any person, be henceforth deemed a deodand, or in any wise forfeited on account of such misfortune. . . .

All the laws which have heretofore been adopted, used, and approved, in the province, colony, or state of New-Hampshire, and usually practised on in the courts of law, shall remain and be in full force, until altered and repealed by the legislature; such parts thereof only excepted, as are repugnant to the rights and liberties contained in this constitution: provided that nothing herein contained, when compared with the twenty-third article in the bill of rights, shall be construed to affect the laws already made respecting the persons or estates of absentees. . . .

The privilege and benefit of habeas-corpus, shall be enjoyed in this state, in the most free, easy, cheap, expeditious, and ample manner, and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a time not exceeding three months.

1. Printed: *State Constitutions, 3–11. A Constitution, Containing a Bill of Rights, and Form of Government, Agreed upon by the Delegates of the People of the State of New-Hampshire, in Convention . . .* (Portsmouth, 1783) (Evans 18043), 3–14. The Convention declared on 31

October 1783 that the Constitution would take effect on the first Wednesday of June 1784.

2. Printed: *State Constitutions*, 32–33. *A Constitution, Containing a Bill of Rights, and Form of Government, Agreed upon by the Delegates of the People of the State of New-Hampshire, in Convention . . .* (Portsmouth, 1783) (Evans 18043), 42–43.

New Jersey

New Jersey Constitution, 1776 (excerpts)¹

16. That all criminals shall be admitted to the same privileges of witnesses and counsel, as their prosecutors are or shall be entitled to.

17. That the estates of such persons as shall destroy their own lives shall not, for that offence, be forfeited; but shall descend in the same manner as they would have done, had such persons died in the natural way; nor shall any article which may occasion accidentally the death of any one, be henceforth deemed a deodand, or in anywise forfeited on account of such misfortune.

18. That no person shall ever within this colony be deprived of the inestimable privilege of worshipping Almighty God in a manner agreeable to the dictates of his own conscience; nor under any pretence whatever be compelled to attend any place of worship, contrary to his own faith and judgment; nor shall any person within this colony ever be obliged to pay tithes, taxes, or any other rates, for the purpose of building or repairing any other church or churches, place or places of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right, or has deliberately or voluntarily engaged himself to perform.

19. That there shall be no establishment of any one religious sect in this province, in preference to another; and that no protestant inhabitants of this colony shall be denied the enjoyment of any civil right, merely on account of his religious principles; but that all persons, professing a belief in the faith of any protestant sect, who shall demean themselves peaceably under the government as hereby established, shall be capable of being elected into any office of profit or trust, or being a member of either branch of the legislature, and shall fully and freely enjoy every privilege and immunity enjoyed by others their fellow subjects. . . .

22. That the common law of England, as well as so much of the statute law as have been heretofore practised in this colony, shall still remain in force, until they shall be altered by a future law of the legislature; such parts only excepted as are repugnant to the rights and privileges contained in this charter; and that the inestimable right of

trial by jury shall remain confirmed, as a part of the law of this colony, without repeal for ever.

1. Printed: *State Constitutions*, 103–5. *Constitution of New Jersey* (Burlington, 1776) (Evans 14912), 10–11.

New York

New York Constitution, 1777 (excerpts)¹

13. And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine and declare, that no member of this state shall be disfranchised, or deprived of any the rights or privileges secured to the subjects of this state, by this constitution, unless by the law of the land, or the judgment of his peers. . . .

38. And whereas we are required by the benevolent principles of rational liberty, not only to expel civil tyranny, but also to guard against that spiritual oppression and intolerance, wherewith the bigotry and ambition of weak and wicked priests and princes, have scourged mankind: This convention doth further, in the name and by the authority of the good people of this state, ordain, determine, and declare, that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed within this state, to all mankind. Provided that the liberty of conscience hereby granted, shall not be so construed, as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

39. And whereas the ministers of the gospel are, by their profession dedicated to the service of God and the cure of souls, and ought not to be diverted from the great duties of their function; therefore no minister of the gospel, or priest of any denomination whatsoever, shall at any time hereafter, under any pretence or description whatever, be eligible to, or capable of holding any civil or military office or place, within this state. . . .

41. And this convention doth further ordain, determine and declare, in the name and by the authority of the good people of this state, that trial by jury, in all cases in which it hath heretofore been used in the colony of New-York, shall be established, and remain inviolate forever. And that no acts of attainder shall be passed by the legislature of this state for crimes, other than those committed before the termination of the present war; and that such acts shall not work a corruption of blood. And further, that the legislature of this state shall, at no time

hereafter, institute any new court or courts, but such as shall proceed according to the course of the common law.

New York Statutory Bill of Rights, 1787²

AN ACT *concerning the Rights of the Citizens of this State.*

Passed the 26th of January, 1787.

BE IT ENACTED *by the People of the State of New-York, represented in Senate and Assembly and it is hereby enacted and declared by the Authority of the same:*

First: That no authority shall, on any pretence whatsoever, be exercised over the Citizens of this State, but such as is or shall be derived from and granted by the People of this State.

Second: That no Citizen of this State shall be taken or imprisoned, or be disseised of his or her freehold or liberties or free customs, or outlawed, or exiled, or condemned, or otherwise destroyed, but by lawful judgment of his or her Peers or by due process of law.

Third: That no Citizen of this State shall be taken or imprisoned for any offence, upon petition or suggestion, unless it be by indictment or presentment of good and lawful men of the same neighbourhood, where such deeds be done, in due manner, or by due process of law.

Fourth: That no person shall be put to answer without presentment before Justices, or matter of record, or due process of law, according to the law of the land, and if any thing be done to the contrary, it shall be void in law and holden for error.

Fifth: That no person, of what estate or condition soever, shall be taken, or imprisoned, or disinherited, or put to death without being brought to answer by due process of law, and that no person shall be put out of his or her franchise or freehold, or lose his or her life or limb, or goods and chattels, unless he or she be duly brought to answer, and be fore-judged of the same by due course of law; and if any thing be done contrary to the same it shall be void in law and holden for none.

Sixth: That neither justice, nor right shall be sold to any person, nor denied, nor deferred; and that writs and process shall be granted freely and without delay, to all persons requiring the same and nothing from henceforth shall be paid or taken for any writ or process but the accustomed fees for writing, and for the seal of the same writ or process; and all fines, duties and impositions whatsoever, heretofore taken or demanded, under what name or description soever, for, or upon granting any writs, inquests, commissions, or process to suitors in their causes, shall be, and hereby are abolished.

Seventh: That no Citizens of this State shall be fined or amerced without reasonable cause, and such fine or amercement, shall always be according to the quantity of his or her trespass or offence, and saving to him or her his or her contenment; that is to say, every freeholder saving his freehold, a merchant saving his merchandize, and a mechanic saving the implements of his trade.

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

Ninth: That all elections shall be free, and that no person by force of arms, nor by malice or menacing, or otherwise, presume to disturb or hinder any Citizen of this State to make free election, upon pain of fine and imprisonment, and treble damages to the party grieved.

Tenth: That it is the right of the Citizens of this State to petition the Person administering the Government of this State for the time being, or either House of the Legislature, and all commitments and prosecutions for such petitioning are illegal.

Eleventh: That the freedom of speech and debates and proceedings in the Senate and Assembly, shall not be impeached or questioned in any Court or place out of the Senate or Assembly.

Twelfth: That no tax, duty, aid or imposition whatsoever, shall be taken or levied within this State, without the grant and assent of the People of this State, by their Representatives in Senate and Assembly, and that no Citizen of this State shall be by any means compelled to contribute to any gift, loan, tax, or other like charge, not set, laid, or imposed by the Legislature of this State; and further, that no Citizen of this State shall be constrained to arm himself, or to go out of this State, or to find soldiers, or men of arms, either horsemen or footmen, if it be not by assent and grant of the People of this State by their Representatives in Senate and Assembly.

Thirteenth: That by the laws and customs of this State, the Citizens and Inhabitants thereof cannot be compelled, against their wills to receive soldiers into their houses, and to sojourn them there, and therefore no Officer military or civil, nor any other person whatsoever, shall, from henceforth, presume to place, quarter, or billet any soldier, or soldiers upon any Citizen or Inhabitant of this State, of any degree or profession whatever, without his or her consent, and that it shall and may be lawful for every such Citizen and Inhabitant to refuse to sojourn or quarter any soldier or soldiers, notwithstanding any command, order, warrant, or billeting whatever.

1. Printed: *State Constitutions*, 86, 95–97. *The Constitution of the State of New York*, (Fishkill, 1777) (Evans, 15473), 13, 31–33.

2. *Laws of the State of New-York . . .* (New York, 1787) (Evans 20578), Chapter I, 5–6.

North Carolina

North Carolina Declaration of Rights, 1776¹

A DECLARATION *of* RIGHTS, &c. 1776

1. That all political power is vested in, and derived from, the people only.

2. That the people of this state ought to have the sole and exclusive right of regulating the internal government and police thereof.

3. That no man, or set of men are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services.

4. That the legislative[,] executive, and supreme judicial powers of government, ought to be for ever separate and distinct from each other.

5. That all powers of suspending laws, or the execution of laws by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

6. That elections of members, to serve as representatives in general assembly, ought to be free.

7. That in all criminal prosecutions every man has a right to be informed of the accusation against him, and to confront the accusers and witnesses with other testimony, and shall not be compelled to give evidence against himself.

8. That no freeman shall be put to answer any criminal charge but by indictment, presentment, or impeachment.

9. That no freeman shall be convicted of any crime, but by the unanimous verdict of a jury of good and lawful men, in open court as heretofore used.

10. That excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

11. That general warrants, whereby an officer or messenger may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

12. That no freeman ought to be taken, imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the law of the land.

13. That every freeman restrained of his liberty, is intitled 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 or delayed.

14. That in all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the people, and ought to remain sacred and inviolable.

15. That the freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained.

16. That the people of this state ought not to be taxed, or made subject to the payment of any impost or duty, without the consent of themselves, or their representatives in general assembly freely given.

17. That the people have a right to bear arms for the defence of the state; and as standing armies in time of peace are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by the civil power.

18. That the people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances.

19. That all Men have a natural and unalienable right to worship Almighty God, according to the dictates of their own conscience.

20. That for redress of grievances, and for amending and strengthening the laws, elections ought to be often held.

21. That a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

22. That no hereditary emoluments, privileges, or honors, ought to be granted or conferred in this state.

23. That perpetuities and monopolies are contrary to the genius of a free state, and ought not to be allowed.

24. That retrospective laws punishing facts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, wherefore no *ex post facto* law ought to be made.

25. The property of the soil in a free government being one of the essential rights of the collective body of the people, it is necessary, in order to avoid future disputes, that the limits of the state should be ascertained with precision; and as the former temporary line between North and South-Carolina was confirmed and extended by commissioners, appointed by the legislatures of the two States, agreeable to the order of the late King George II in council, that line, and that only, should be esteemed the southern boundary of this state, that is to say, beginning on the sea side at a cedar stake, at or near the mouth of Little River (being the southern extremity of Brunswick County) and running from thence a north-west course through the boundary-house, which stands in thirty-three degrees fifty-six minutes, to thirty-five degrees north latitude, and from thence a west course, so far as is men-

tioned in the charter of King Charles II, to the late proprietors of Carolina: Therefore all the territory, seas, waters, and harbours, with their appurtenances, lying between the line above described, and the southern line of the state of Virginia, which begins on the sea shore, in thirty-six degrees thirty minutes north latitude, and from thence runs west, agreeable to the said charter of King Charles, are the right and property of the people of this state, to be held by them in sovereignty; any partial line, without the consent of the legislature of this state, at any time thereafter directed, or laid out in anywise notwithstanding. *Provided always*, That this declaration of right shall not prejudice any nation or nations of Indians, from enjoying such hunting grounds as may have been, or hereafter shall be secured to them, by any former or future legislature of this state. *And provided also*, That it shall not be construed so as to prevent the establishment of one or more governments westward of this state, by consent of the legislature. *And provided further*, That nothing herein contained shall affect the titles or possessions of individuals, holding or claiming under the laws heretofore in force, or grants heretofore made by the late King George III or his predecessors, or the late lords proprietors, or any of them.

North Carolina Constitution, 1776 (excerpts)²

9. That all persons possessed of a freehold in any town in this state, having a right of representation, and also all freemen who have been inhabitants of any such town twelve months next before, and at the day of election, and shall have paid public taxes, shall be entitled to vote for a member to represent such town in the house of commons.

Provided always, That this section shall not entitle any inhabitant of such town to vote for members of the house of commons, for the county in which he may reside, nor any freeholder in such county who resides without or beyond the limits of such town, to vote for a member for said town. . . .

31. That no clergyman or preacher of the gospel, of any denomination, shall be capable of being a member of either the senate, house of commons, or council of state, while he continues in the exercise of the pastoral function.

32. That no person who shall deny the being of God, or the truth of the Protestant religion, or the divine authority either of the Old or New-Testaments, or who shall hold religious principles incompatible with the freedom and safety of the state, shall be capable of holding any office, or place of trust or profit in the civil department within this State. . . .

34. That there shall be no establishment of any one religious church or denomination in this state in preference to any other, neither shall any person, on any pretence whatsoever, be compelled to attend any place of worship contrary to his own faith or judgment, nor be obliged to pay for the purchase of any glebe, or the building of any house of worship, or for the maintenance of any minister or ministry, contrary to what he believes right, or has voluntarily and personally engaged to perform; but all persons shall be at liberty to exercise their own mode of worship.

Provided, That nothing herein contained shall be construed to exempt preachers of treasonable or seditious discourses from legal trial and punishment. . . .

39. That the person of a debtor, where there is not a strong presumption of fraud, shall not be continued in prison, after delivering up, *bona fide*, all his estate, real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law. All prisoners shall be bailable by sufficient sureties unless for capital offences, when the proof is evident, or the presumption great.

40. That every foreigner who comes to settle in this state, having first taken an oath of allegiance to the same, may purchase, or, by other just means acquire, hold, and transfer land, or other real estate; and after one years residence, shall be deemed a free citizen. . . .

44. That the declaration of rights is hereby declared to be part of the constitution of this state, and ought never to be violated, on any pretence whatsoever.

1. Printed: *State Constitutions*, 183–87. *The Journal of the Proceedings of the Provincial Congress of North-Carolina . . . Together with the Declaration of Rights, Constitution, & Ordinances of Congress* (New Bern, 1777) (Evans 15489), 3–5.

2. Printed: *State Constitutions*, 189, 194–96. *The Journal of the Proceedings of the Provincial Congress of North-Carolina . . . Together with the Declaration of Rights, Constitution, & Ordinances of Congress* (New Bern, 1777) (Evans 15489), 8–9.

Pennsylvania

Pennsylvania Declaration of Rights, 1776¹

A DECLARATION of the RIGHTS of the Inhabitants of the State of Pennsylvania.

1. That all men are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongst which are, the enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety.

2. That all men have a natural and unalienable right to worship Almighty God, according to the dictates of their own consciences and understanding: And that no man ought, or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any ministry, contrary to, or against, his own free will and consent: Nor can any man, who acknowledges the being of a God, be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments, or peculiar mode of religious worship: And that no authority can or ought to be vested in or assumed by any power whatever, that shall in any case interfere with, or in any manner controul, the right of conscience in the free exercise of religious worship.

3. That the people of this state have the sole, exclusive, and inherent right of governing and regulating the internal police of the same.

4. That all power being originally inherent in, and consequently derived from, the people; therefore all officers of government, whether legislative or executive, are their trustees and servants, and at all times accountable to them.

5. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community; and not for the particular emolument or advantage of any single man, family, or set of men, who are a part only of that community: And that the community hath an indubitable, unalienable, and indefeasible right to reform, alter, or abolish government in such manner, as shall be by that community judged most conducive to the public weal.

6. That those who are employed in the legislative and executive business of the state may be restrained from oppression, the people have a right, at such periods as they may think proper, to reduce their public officers to a private station, and supply the vacancies by certain and regular elections.

7. That all elections ought to be free; and that all free men having a sufficient evident common interest with, and attachment to the community, have a right to elect officers, or be elected into office.

8. That every member of society hath a right to be protected in the enjoyment of life, liberty, and property, and therefore is bound to contribute his proportion towards the expence of that protection, and yield his personal service, when necessary, or an equivalent thereto: But no part of a man's property can be justly taken from him, or applied to public uses, without his own consent, or that of his legal representatives: Nor can any man who is conscientiously scrupulous of bearing arms, be justly compelled thereto, if he will pay such equivalent: Nor are the people bound by any laws, but such as they have in like manner assented to, for their common good.

9. That in all prosecutions for criminal offences, a man hath a right to be heard by himself and his council, to demand the cause and nature of his accusation, to be confronted with the witnesses, to call for evidence in his favour, and a speedy public trial, by an impartial jury of the country, without the unanimous consent of which jury, he cannot be found guilty: Nor can he be compelled to give evidence against himself: Nor can any man be justly deprived of his liberty, except by the laws of the land, or the judgment of his peers.

10. That the people have a right to hold themselves, their houses, papers, and possessions, free from search and seizure; and therefore warrants, without oaths or affirmations first made, affording a sufficient foundation for them, and whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his or their property, not particularly described, are contrary to that right and ought not to be granted.

11. That in controversies respecting property, and in suits between man and man, the parties have a right to trial by jury, which ought to be held sacred.

12. That the people have a right to freedom of speech, and of writing, and publishing their sentiments; therefore the freedom of the press ought not to be restrained.

13. That the people have a right to bear arms for the defence of themselves and the state; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up: And that the military should be kept under strict subordination to, and governed by, the civil power.

14. That a frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the blessings of liberty, and keep a government free: The people ought therefore to pay particular attention to these points in the choice of officers and representatives, and have a right to extract a due and constant regard to them, from their legislatures and magistrates, in the making and executing such laws as are necessary for the good government of the state.

15. That all men have a natural inherent right to emigrate from one state to another that will receive them, or to form a new state in vacant countries, or in such countries as they can purchase, whenever they think that thereby they may promote their own happiness.

16. That the people have a right to assemble together, to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances, by address, petition, or remonstrance.

Pennsylvania Constitution, 1776 (excerpts)²

Sect. 5. The freemen of this commonwealth and their sons shall be trained and armed for its defence under such regulations, restrictions, and exceptions as the general assembly shall by law direct, preserving always to the people the right of chusing their colonel, and all commissioned officers under that rank, in such manner and as often as by the said laws shall be directed.

Sect. 6. Every freemen of the full age of twenty-one years, having resided in this state for the space of one whole year next before the day of election for representatives, and paid public taxes during that time, shall enjoy the right of an elector: Provided always, that sons of freeholders of the age of twenty-one years shall be entitled to vote although they have not paid taxes. . . .

Sect. 25. Trials shall be by jury as heretofore: And it is recommended to the legislature of this state to provide by law against every corruption or partiality in the choice, return, or appointment of juries. . . .

Sect. 28. The person of a debtor, where there is not a strong presumption of fraud, shall not be continued in prison, after delivering up, *bona fide*, all his estate, real and person, for the use of his creditors, in such manner as shall be hereafter regulated by law. All prisoners shall beailable by sufficient sureties, unless for capital offences, when the proof is evident, or presumption great.

Sect. 29. Excessive bail shall not be exacted forailable offences: And all fines shall be moderate. . . .

Sect. 35. The printing presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any part of government.

Sect. 36. As every freeman to preserve his independence (if without a sufficient estate) ought to have some profession, calling, trade or farm, whereby he may honestly subsist, there can be no necessity for, nor use in establishing offices of profit; the usual effects of which are dependence and servility unbecoming freemen, in the possessors and expectants; faction, contention, corruption, and disorder among the people. But if any man is called into public service, to the prejudice of his-private affairs, he has a right to a reasonable compensation: And whenever an office, through increase of fees or otherwise, becomes so profitable as to occasion many to apply for it, the profits ought to be lessened by the legislature. . . .

Sect. 38. The penal laws as heretofore used shall be reformed by the legislature of this state, as soon as may be, and punishments made in

some cases less sanguinary, and in general more proportionate to the crimes.

Sect. 39. To deter more effectually from the commission of crimes, by continued visible punishment of long duration, and to make sanguinary punishments less necessary, houses ought to be provided for punishing by hard labour, those who shall be convicted of crimes not capital; wherein the criminals shall be employed for the benefit of the public, or for reparation of injuries done to private persons: And all persons at proper times shall be admitted to see the prisoners at their labour. . . .

Sect. 41. No public tax, custom or contribution shall be imposed upon, or paid by the people of this state, except by a law for that purpose:— And before any law be made for raising it, the purpose for which any tax is to be raised ought to appear clearly to the legislature to be of more service to the community than the money would be, if not collected; which being well observed, taxes can never be burdens.

Sect. 42. Every foreigner of good character who comes to settle in this state, having first taken an oath or affirmation of allegiance to the same, may purchase, or by other just means acquire, hold, and transfer land or other real estate; and after one year's residence shall be deemed a free denizen thereof, and intitled to all the rights of a natural born subject of this state, except that he shall not be capable of being elected a representative until after two years residence.

Sect. 43. The inhabitants of this state shall have liberty to fowl and hunt in seasonable times on the lands they hold, and on all other lands therein not inclosed; and in like manner to fish in all boatable waters, and others not private property. . . .

Sect. 45. Laws for the encouragement of virtue, and prevention of vice and immorality, shall be made and constantly kept in force, and provision shall be made for their due execution: And all religious societies or bodies of men heretofore united or incorporated for the advancement of religion and learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities and estates which they were accustomed to enjoy, or could of right have enjoyed, under the laws and former constitution of this state.

Sect. 46. The declaration of rights is hereby declared to be a part of the constitution of this commonwealth, and ought never to be violated on any pretence whatever.

1. Printed: *State Constitutions*, 109–12. *The Constitution of the Common-wealth of Pennsylvania, as established by the general convention . . .* (Philadelphia, 1776) (Evans 14979), 5–9.

2. Printed: *State Constitutions*, 113, 122–27. *The Constitution of the Commonwealth of Pennsylvania, as established by the general convention . . .* (Philadelphia, 1776) (Evans 14979), 23, 24, 28.

Rhode Island

Rhode Island's political development evolved in such a manner that it neither wrote a constitution nor passed a declaration of rights until much later than its sister states. Founded by religious non-conformists banished from neighboring Massachusetts, from the beginning Rhode Islanders governed themselves as "a DEMOCRACIE, or Popular Government; that is to say, It is in the Powre of the Body of Freemen orderly assembled, or the major part of them, to make or constitute Just Lawes."¹ Rhode Island's democratic form of government, legitimized in 1663 by a royal charter recognizing Rhode Island as a British colony, provided its freemen with more extensive rights than most other colonies. Rhode Islanders enjoyed a remarkable degree of religious liberty for the time, the right to a trial by jury, the direct-election of most state officeholders through popular elections, and lenient property qualifications for the right to vote. Furthermore, the town meetings held frequently provided a forum for initiating legislation and as a referendum on proposed legislation. Satisfied with their century-old government and the rights it conferred, Rhode Islanders opted to retain their colonial charter as the foundation for their government during the Revolutionary era, the only state besides Connecticut to do so. The Rhode Island General Assembly did enact a declaration of rights as part of a compilation of general laws in 1798.² Rhode Island's first state constitution was written in 1842.

1. Francis N. Thorpe, ed., *The Federal and State Constitution . . .* (7 vols., Washington, D.C., 1909), VI:3207.

2. *The Public Laws of the State of Rhode Island and Providence Plantations*, (Providence, 1798) (Evans 34453), 79–81.

South Carolina

South Carolina adopted state constitutions in 1776, 1778, and 1790. Excerpts of the 1778 and 1790 constitutions are printed below. South Carolina's 1776 constitution has been omitted, because it contains no explicit rights and is, in the words of one historian, more "a polemical document than a plan of government."¹ Despite the absence of explicit rights in the 1776 constitution, South Carolinians could claim a wide array of rights stemming from English common law and earlier statutes enacted by their colonial governments.

South Carolina Constitution, 1778 (excerpts)²

XXI. And whereas the ministers of the gospel are by their profession dedicated to the service of God and the cure of souls, and ought not

to be diverted from the great duties of their function, therefore no minister of the gospel or public preacher of any religious persuasion, while he continues in the exercise of his pastoral function, and for two years after, shall be eligible either as governor, lieutenant-governor, a member of the senate, house of representatives, or privy council in this State. . . .

XXXVIII. That all persons and religious societies who acknowledge that there is one God, and a future state of rewards and punishments, and that God is publicly to be worshipped, shall be freely tolerated. The Christian Protestant religion shall be deemed, and is hereby constituted and declared to be, the established religion of this State. That all denominations of Christian Protestants in this State, demeaning themselves peaceably and faithfully, shall enjoy equal religious and civil privileges. To accomplish this desirable purpose without injury to the religious property of those societies of Christians which are by law already incorporated for the purpose of religious worship, and to put it fully into the power of every other society of Christian Protestants, either already formed or hereafter to be formed, to obtain the like incorporation, it is hereby constituted, appointed, and declared that the respective societies of the Church of England that are already formed in this State for the purpose of religious worship shall still continue incorporate and hold the religious property now in their possession. And that whenever fifteen or more male persons, not under twenty-one years of age, professing the Christian Protestant religion, and agreeing to unite themselves in a society for the purposes of religious worship, they shall, (on complying with the terms hereinafter mentioned,) be, and be constituted a church, and be esteemed and regarded in law as of the established religion of the State, and on a petition to the legislature shall be entitled to be incorporated and to enjoy equal privileges. That every society of Christians so formed shall give themselves a name or denomination by which they shall be called and known in law, and all that associate with them for the purposes of worship shall be esteemed as belonging to the society so called. But that previous to the establishment and incorporation of the respective societies of every denomination as aforesaid, and in order to entitle them thereto, each society so petitioning shall have agreed to and subscribed in a book the following five articles, without which no agreement or union of men upon pretence of religion shall entitle them to be incorporated and esteemed as a church of the established religion of this State:

1st. That there is one eternal God, and a future state of rewards and punishments.

2d. That God is publicly to be worshipped.

3d. That the Christian religion is the true religion.

4th. That the holy scriptures of the Old and New Testaments are of divine inspiration, and are the rule of faith and practice.

5th. That it is lawful and the duty of every man being thereunto called by those that govern, to bear witness to the truth.

And that every inhabitant of this State, when called to make an appeal to God as a witness to truth, shall be permitted to do it in that way which is most agreeable to the dictates of his own conscience. And that the people of this State may forever enjoy the right of electing their own pastors or clergy, and at the same time that the State may have sufficient security for the due discharge of the pastoral office, by those who shall be admitted to be clergymen, no person shall officiate as minister of any established church who shall not have been chosen by a majority of the society to which he shall minister, or by persons appointed by the said majority, to choose and procure a minister for them; nor until the minister so chosen and appointed shall have made and subscribed to the following declaration, over and above the afore-said five articles, viz: "That he is determined by God's grace out of the holy scriptures, to instruct the people committed to his charge, and to teach nothing as required of necessity to eternal salvation but that which he shall be persuaded may be concluded and proved from the scripture; that he will use both public and private admonitions, as well to the sick as to the whole within his cure, as need shall require and occasion shall be given, and that he will be diligent in prayers, and in reading of the same; that he will be diligent to frame and fashion his own self and his family according to the doctrine of Christ, and to make both himself and them, as much as in him lieth, wholesome examples and patterns to the flock of Christ; that he will maintain and set forwards, as much as he can, quietness, peace, and love among all people, and especially among those that are or shall be committed to his charge.["] No person shall disturb or molest any religious assembly; nor shall use any reproachful, reviling, or abusive language against any church, that being the certain way of disturbing the peace, and of hindering the conversion of any to the truth, by engaging them in quarrels and animosities, to the hatred of the professors, and that profession which otherwise they might be brought to assent to. No person whatsoever shall speak anything in their religious assembly irreverently or seditiously of the government of this State. No person shall, by law, be obliged to pay towards the maintenance and support of a religious worship that he does not freely join in, or has not voluntarily engaged to support. But the churches, chapels, parsonages, glebes, and all other property now belonging to any societies of the Church of England, or

any other religious societies, shall remain and be secured to them forever. The poor shall be supported, and elections managed in the accustomed manner, until laws shall be provided to adjust those matters in the most equitable way. . . .

XL. That the penal laws, as heretofore used, shall be reformed, and punishments made in some cases less sanguinary, and in general more proportionate to the crime.

XLI. That no freeman of this State be taken or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, exiled or in any manner destroyed or deprived of his life, liberty, or property, but by the judgment of his peers or by the law of the land.

XLIII. That the liberty of the press be inviolably preserved.

XLIV. That no part of this constitution shall be altered without notice being previously given of ninety days, nor shall any part of the same be changed without the consent of a majority of the members of the senate and house of representatives.

South Carolina Constitution, 1790 (excerpts)³

ARTICLE I

Section 23. And whereas the ministers of the gospel are, by their profession, dedicated to the service of God and the care of souls, and ought not to be diverted from the great duties of their function, therefore no minister of the gospel or public preacher of any religious persuasion, whilst he continues in the exercise of his pastoral functions, shall be eligible to the office of governor, lieutenant-governor, or to a seat in the senate or house of representatives.

ARTICLE VIII

Section 1. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed within this State to all mankind: Provided, that the liberty of conscience thereby declared shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

Section 2. The rights, privileges, immunities, and estates of both civil and religious societies, and of corporate bodies, shall remain as if the constitution of this State had not been altered or amended.

ARTICLE IX

Section 1. All power is originally vested in the people; and all free governments are founded on their authority, and are instituted for their peace, safety, and happiness.

Section 2. No freemen of this State shall be taken, or imprisoned, or disseized of his freehold; liberties, or privileges, or outlawed, or ex-

iled, or in any manner destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the law of the land; nor shall any bill of attainder, ex-post facto law, or law impairing the obligation of contracts, ever be passed by the legislature of this State. . . .

Section 4. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted. . . .

Section 6. The trial by jury, as heretofore used in this State, and the liberty of the press, shall be forever inviolably preserved.

ARTICLE X

. . . No part of this constitution shall be altered, unless a bill to alter the same shall have been read three times in the house of representatives, and three times in the senate, and agreed to by two-thirds of both branches of the whole representation; neither shall any alteration take place until the bill so agreed to be published three months previous to a new election for members to the house of representatives; and if the alteration proposed by the legislature shall be agreed to, in their first session, by two-thirds of the whole representation in both branches of the legislature, after the same shall have been read three times, or three several days, in each house, then, and not otherwise, the same shall become a part of the constitution.

1. Michel E. Stevens, "Their Liberties, Properties and Priviledges: Civil Liberties in South Carolina, 1663–1791" in Patrick T. Conley and John P. Kaminski, eds., *The Bill of Rights and the States* (Madison, Wis., 1992), 411.

2. Printed: *State Constitutions*, 208–9, 213–17. *An Act for Establishing the Constitution of the State of South-Carolina* (Charleston, 1778) (Evans 16073), 10, 12–15.

3. *The Constitution of South Carolina* (Charleston, 1790) (Evans 22896), 7, 10–12.

Vermont

Vermont Declaration of Rights, 1777¹

Whereas all government ought to be instituted and supported for the security and protection of the community as such, and to enable the individuals who compose it to enjoy their natural rights, and the other blessings which the Author of Existence has bestowed upon man; and whenever those great ends of government are not obtained, the people have a right by common consent to change it, and take such measures as to them may appear necessary to promote their safety and happiness.

And whereas the inhabitants of this State have (in consideration of protection only) heretofore acknowledged allegiance to the King of Great-Britain, and the said King has not only withdrawn that protection,

but commenced and still continues to carry on, with unabated vengeance, a most cruel and unjust war against them; employing therein not only the troops of Great-Britain, but foreign mercenaries, savages and slaves, for the avowed purpose of reducing them to a total and abject submission to the despotic domination of the British Parliament, with many more acts of tyranny, (more fully set forth in the declaration of Congress)² whereby all allegiance and fealty to the said King and his successors, are dissolved and at an end; and all power and authority derived from him ceased in the American Colonies.

And whereas the territory which now comprehends the State of Vermont, did antecedently of right belong to the government of New-Hampshire; and the former Governor thereof, viz. his Excellency Benning Wentworth, Esq. granted many charters of lands and corporations within this State to the present inhabitants and others. And whereas the late Lieutenant-Governor Colden, of New-York, with others, did, in violation of the tenth command[ment], covet those very lands; and by a false representation made to the court of Great-Britain (in the year 1764, that for the convenience of trade and administration of justice, the inhabitants were desirous of being annexed to that government) obtained jurisdiction of those very identical lands ex-parte, which ever was and is disagreeable to the inhabitants. And whereas the Legislature of New-York, ever have and still continue to disown the good people of this State, in their landed property, which will appear in the complaints hereafter inserted, and in the 36th section of their present Constitution, in which is established the grants of land made by that government.

They have refused to make re-grants of our lands to the original proprietors and occupants, unless at the exorbitant rate of 2300 dollars fees for each township; and did enhance the quit-rent three fold, and demanded an immediate delivery of the title derived from New-Hampshire.

The Judges of their Supreme Court have made a solemn declaration, that the charters, conveyances, &c. of the lands included in the before described premises, were utterly null and void, on which said title was founded. In consequence of which declaration, writs of possession have been by them issued, and the Sheriff of the county of Albany sent at the head of six or seven hundred men, to enforce the execution thereof.

They have passed an act, annexing a penalty thereto, of thirty pounds fine and six months imprisonment on any person who should refuse assisting the Sheriff, after being requested, for the purpose of executing writs of possession.

The Governors Dunmore, Tryon, and Colden, have made re-grants of several tracts of land included in the premises, to certain favorite

land-jobbers in the government of New-York, in direct violation of his Britannic Majesty's express prohibition, in the year 1767.

They have issued proclamations, wherein they have offered large sums of money for the purpose of apprehending those very persons who have dared boldly and publicly to appear in defence of their just rights.

They did pass twelve acts of outlawry on the 9th day of March, A. D. 1774, empowering the respective Judges of their Supreme Court to award execution of death against those inhabitants in said district, that they should judge to be offenders, without trial.

They have and still continue an unjust claim to those lands, which greatly retards emigration into, and the settlement of this State.

They have hired foreign troops, emigrants from Scotland, at two different times, and armed them to drive us out of possession.

They have sent the savages on our frontiers to distress us.

They have proceeded to erect the counties of Cumberland and Gloucester, and establish Courts of Justice there, after they were discountenanced by the authority of Great-Britain.

The free Convention of the State of New-York, at Harlem, in the year 1776, unanimously voted, "That all quit-rents, formerly due to the King of Great-Britain, are now due and owing to this Convention, or such future government as shall be hereafter established in this State."

In the several stages of the aforesaid oppressions, we have petitioned his Britannic Majesty in the most humble manner for redress, and have at very great expence, received several reports in our favor; and in other instances wherein we have petitioned the late legislative authority of New-York, those petitions have been treated with neglect.

And whereas, the local situation of this State from New-York, at the extreme part, is upward of four hundred and fifty miles from the seat of that government, renders it extreme difficult to continue under the jurisdiction of said State.

Therefore it is absolutely necessary, for the welfare and safety of the inhabitants of this State, that it should be henceforth a free and independent State, and that a just, permanent, and proper form of government, should exist in it, derived from, and founded on, the authority of the people only, agreeable to the direction of the Honorable American Congress.

We the Representatives of the freemen of Vermont, in General Convention met, for the express purpose of forming such a government; confessing the goodness of the great Governor of the Universe (who alone knows to what degree of earthly happiness mankind may attain by perfecting the arts of government) in permitting the people of this State, by common consent, and without violence, deliberately to form

for themselves such just rules as they shall think best for governing their future society; and being fully convinced, that it is our indispensable duty to establish such original principles of government as will best promote the general happiness of the people of this State, and their posterity, and provide for future improvements, without partiality for, or prejudice against, any particular class, sect, or denomination of men whatever—do, by virtue of authority vested in us by our constituents, ordain, declare, and establish, the following declaration of rights, and frame of government, to be the Constitution of this Commonwealth, and to remain in force therein forever unaltered, except in such articles as shall hereafter on experience be found to require improvement, and which shall, by the same authority of the people, fairly delegated, as this frame of government directs, be amended or improved, for the more effectual obtaining and securing the great end and design of all government, herein before mentioned.

CHAPTER I.

A Declaration of the Rights of the Inhabitants of the State of Vermont.

1. That all men are born equally free and independent, and have certain natural, inherent, and unalienable rights; amongst which are, the enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining happiness and safety. Therefore, no male person, born in this country, or brought from over sea, ought to be holden by law to serve any person, as a servant, slave, or apprentice, after he arrives to the age of twenty-one years; nor female in like manner, after she arrives to the age of eighteen years; unless they are bound by their own consent after they arrive to such age; or bound by law for the payment of debts, damages, fines, costs, or the like.

2. That private property ought to be subservient to public uses, when necessity requires it; nevertheless, whenever any particular man's property is taken for the use of the public, the owner ought to receive an equivalent in money.

3. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understandings, as in their opinion shall be regulated by the word of God; and that no man ought, or of right can be compelled, to attend any religious worship, or erect, or support any place of worship, or maintain any minister, contrary to the dictates of his conscience; nor can any man be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments, or peculiar mode of religious worship; & that no authority can, or ought to, be vested in, or assumed by, any power whatsoever, that shall in any case interfere with, or in

any manner control, the rights of conscience, in the free exercise of religious worship; nevertheless, every sect or denomination of christians ought to observe the Sabbath or Lord's day, and keep up some sort of religious worship which to them shall seem most agreeable to the revealed will of God.

4. Every person within this Commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character; he ought to obtain right and justice freely, and without being obliged to purchase it—completely, and without any denial—promptly, and without delay, conformably to the laws.

5. That the people of this State, by their legal Representatives, have the sole, exclusive, and inherent right, of governing and regulating the internal police of the same.

6. That all power being originally inherent in, and consequently derived from, the people: therefore all officers of government, whether legislative or executive, are their trustees and servants, and at all times, in a legal way, accountable to them.

7. That government is, or ought to be, instituted for the common benefit, protection, and security, of the people, nation, or community; and not for the particular emolument or advantage of any single man, family, or set of men, who are a part only of that community: and that the community hath an indubitable, unalienable, and indefeasible right, to reform or alter government, in such manner as shall be, by that community, judged most conducive to the public weal.

8. That those who are employed in the legislative and executive business of the State may be restrained from oppression, the people have a right, by their legal Representatives, to enact laws for reducing their public officers to a private station, and for supplying their vacancies, in a constitutional manner, by regular elections, at such periods as they may think proper.

9. That all elections ought to be free and without corruption; and that all freemen having a sufficient evident common interest with, and attachment to, the community, have a right to elect officers, and be elected into office.

10. That every member of society hath a right to be protected in the enjoyment of life, liberty, and property, and therefore is bound to contribute his proportion towards the expence of that protection, and yield his personal service, when necessary, or an equivalent thereto; but no part of a man's property can be justly taken from him, or applied to public uses, without his own consent, or that of the Representative Body of the Freemen: nor can any man, who is conscientiously scrupulous

of bearing arms, be justly compelled thereto, if he will pay such equivalent: nor are the people bound by any law, but such as they have in like manner assented to for their common good. And previous to any law being made to raise a tax, the purpose for which it is to be raised ought to appear evident to the Legislature to be of more service to the community, than the money would be if not collected.

11. That in all prosecutions for criminal offences, a man hath a right to be heard by himself and his counsel,—to demand the cause and nature of his accusation,—to be confronted with the witnesses,—to call for evidence in his favor, and a speedy public trial by an impartial jury of the country, without the unanimous consent of which jury he cannot be found guilty:—nor can he be compelled to give evidence against himself:—nor can any man be justly deprived of his liberty, except by the laws of the land, or the judgment of his Peers.

12. That the people have a right to hold themselves, their houses, papers, and possessions, free from search or seizure; and therefore warrants, without oaths or affirmations first made, affording sufficient foundation for them, and whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his, her, or their property, not particularly described, are contrary to that right, and ought not to be granted.

13. That no warrant or writ to attach the person or estate of any freeholder within this State, shall be issued in civil action, without the person or persons who may request such warrant or attachment, first make oath, or affirm before the authority who may be requested to issue the same, that he or they are in danger of losing his, her, or their debts.

14. That when an issue in fact, proper for the cognizance of a jury, is joined in a Court of law, the parties have a right to a trial by jury; which ought to be held sacred.

15. That the people have a right to freedom of speech, and of writing and publishing their sentiments, concerning the transactions of government—and therefore the freedom of the press ought not to be restrained.

16. The freedom of deliberation, speech, and debate, in the Legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other Court or place whatsoever.

17. The power of suspending laws, or the execution of laws, ought never to be exercised, but by the Legislature, or by authority derived from it, to be exercised in such particular cases only as the Legislature shall expressly provide for.

18. That the people have a right to bear arms, for the defence of themselves and the State:—and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by, the civil power.

19. That no person in this Commonwealth can, in any case, be subjected to law-martial, or to any penalties or pains by virtue of that law, except those employed in the army, and the militia in actual service.

20. That frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry and frugality, are absolutely necessary to preserve the blessings of liberty, and keep government free: the people ought therefore to pay particular attention to these points, in the choice of officers and Representatives; and have a right, in a legal way, to exact a due and constant regard to them, from their legislators and magistrates, in the making and executing such laws as are necessary for the good government of the State.

21. That all people have a natural and inherent right to emigrate from one State to another that will receive them; or to form a new State in vacant countries, or in such countries as they can purchase, whenever they think that thereby they can promote their own happiness.

22. That the people have a right to assemble together, to consult for their common good—to instruct their Representatives—and to apply to the Legislature for redress of grievances, by address, petition, or remonstrance.

23. That no person shall be liable to be transported out of this State, for trial for any offence committed within the same.

Vermont Constitution, 1786 (excerpts)³

Chapter II Plan of Government SECTION XVII.

No person ought, in any case, or in any time, to be declared guilty of treason or felony by the Legislature. . . .

Section XXII.

As every freeman, to preserve his independence, (if without a sufficient estate) ought to have some profession, calling, trade, or farm, whereby he may honestly subsist, there can be no necessity for, nor use in establishing offices of profit, the usual effects of which are dependence and servility, unbecoming freemen, in the possessors or expectants, faction, contention, corruption and disorder among the people.

But if any man is called into public service, to the prejudice of his private affairs, he has a right to a reasonable compensation: and whenever an office, through increase of fees or otherwise, becomes so profitable as to occasion many to apply for it, the profits ought to be lessened by the legislature. And if any officer shall take greater or other fees than the laws allow him, either directly or indirectly, it shall ever after disqualify him from holding any office in this State. . . .

SECTION XXVIII.

Trials of issues, proper for the cognizance of a jury, in the Supreme and County Courts, shall be by jury, except where parties otherwise agree; and great care ought to be taken to prevent corruption or partiality in the choice and return, or appointment of juries.

SECTION XXIX.

All prosecutions shall commence by the authority of the State of Vermont—all indictments shall conclude with these words, *against the peace and dignity of the State*. And all fines shall be proportionate to the offences.

SECTION XXX.

The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up and assigning over, *bona fide*, all his estate, real and personal, in possession, reversion, or remainder, for the use of his creditors, in such manner as shall be hereafter regulated by law. And all prisoners, unless in execution, or committed for capital offences, when the proof is evident or presumption great, shall be bailable by sufficient sureties; nor shall excessive bail be exacted for bailable offences. . . .

SECTION XXXV.

The estates of such persons as may destroy their own lives shall not, for that offence, be forfeited, but descend or ascend in the same manner as if such persons had died in a natural way. Nor shall any article which shall accidentally occasion the death of any person, be henceforth deemed a deodand,⁴ or in any wise forfeited, on account of such misfortune.

SECTION XXXVI.

Every person, of good character, who comes to settle in this State, having first taken an oath or affirmation of allegiance to the same, may purchase, or by other just means acquire, hold and transfer land, or other real estate; and, after one year's residence, shall be deemed a free denizen thereof, and entitled to all the rights of a natural born subject of this State, except that he shall not be capable of being elected Governor, Lieutenant-Governor, Treasurer, Councillor, or Representative in Assembly, until after two years residence.

SECTION XXXVII.

The inhabitants of this State shall have liberty, in seasonable times, to hunt and fowl on the lands they hold, and on other lands not inclosed; and in like manner to fish in all boatable and other waters, not private property, under proper regulations, to be hereafter made and provided by the General Assembly. . . .

SECTION XXXIX.

The declaration of the political rights and privileges of the inhabitants of this State, is hereby declared to be a part of the Constitution of this Commonwealth; and ought not to be violated on any pretence whatsoever.

1. *The Constitution of Vermont, As Established by Convention in the Year 1778 [i.e., 1777], and Revised by Convention in June 1786* (Windsor, Vt., 1786) (Evans 20096), 3–13. All rights appearing in the 1786 constitution also appeared in the 1777 Constitution, with four additional rights being added to the 1786 Declaration of Rights: 4, 16, 17 and 19. For the Vermont Constitution of 1777 see *The Constitution of the State of Vermont* (Hartford, 1778) (Evans 16151).

2. A reference to the Declaration of Independence.

3. *The Constitution of Vermont, As Established by Convention in the Year 1778 [i.e., 1777], and Revised by Convention in June 1786* (Windsor, Vt., 1786) (Evans 20096) 21, 23, 25–26, 27–30.

4. A deodand, in English common law, was an object forfeited to the Crown for having been the cause of a death. From the Latin, deo dandum, meaning “to be given to God.”

Virginia

Virginia Declaration of Rights, 1776¹

A DECLARATION of RIGHTS made by the representatives of the good people of Virginia, assembled in full and free Convention; which rights do pertain to them, and their posterity, as the basis and foundation of government.

1. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

3. That government is, or ought to be, instituted for the common benefit, protection, and security, of the people, nation, or community, of all the various modes and forms of government that is best, which

is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration; and that whenever any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable, and indefeasible right, to reform, alter, or abolish it, in such manner as shall be judged most conducive to the publick weal.

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

5. That the legislative and executive powers of the state should be separate and distinct from the judiciary; and that the members of the two first may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws shall direct.

6. That elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for publick uses without their own consent, or that of their representatives so elected, nor bound by any law to which they have not, in like manner, assented, for the publick good.

7. That all power of suspending laws, or the execution of laws, by any authority without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

8. That in all capital or 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 in his favour, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty, nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land, or the judgment of his peers.

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

10. That general warrants, whereby any officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence

is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

11. That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

12. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotick governments.

13. That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free state; that standing armies, in time of peace, should be avoided, as dangerous to liberty: and that, in all cases, the military should be under strict subordination to, and governed by, the civil power.

14. That the people have a right to uniform government; and therefore, that no government separate from, or independent of, the government of Virginia, ought to be erected or established within the limits thereof.

15. That no free government, or the blessing of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

16. 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 are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity, towards each other.

1. *Ordinances Passed at a General Convention . . .* (Williamsburg, [1776]) (Evans 15199), 3–5.

V. THE CONSTITUTIONAL CONVENTION DEBATES OVER RIGHTS

Introduction

During its four-month session, the Constitutional Convention considered a variety of rights that might be protected in the new form of government for the United States. The guarantee of trial by jury in criminal cases, the protection for the writ of habeas corpus, the freedom of speech in Congress, and the prohibition of bills of attainder, ex post facto laws, and religious oaths for office holding were all included in the body of the Constitution. The delegates also debated and included a limited definition of treason and the procedure for conviction as well as the limitations on punishment for this crime. At times the delegates considered but eventually rejected including a general bill of rights, the freedom of the press, and the guarantee of jury trials in civil cases. The debates over all of these provisions have been compiled in Section V.

Toward the end of their session, the delegates considered and rejected calling a second constitutional convention that would consider amendments to the Constitution. Documents detailing the debate over a second constitutional convention have been placed in Section VIII (below) dealing with the call of a second constitutional convention.

Habeas Corpus

U.S. Constitution, Article I, Section 9

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

Charles Pinckney's Plan, Tuesday, 28 May 1787

The next Article provides for the privilege of the Writ of Habeas Corpus— [Pinckney's Pamphlet edition, Farrand, III, 122]

Journal, Monday, 20 August 1787 (excerpts)

MR. CHARLES PINCKNEY submitted to the House, in order to be referred to the Committee of detail, the following propositions— . . .

The privileges and benefit of the Writ of Habeas corpus shall be enjoyed in this Government in the most expeditious and ample man-

ner; and shall not be suspended by the Legislature except upon the most urgent and pressing occasions, and for a limited time not exceeding _____ months. . . .

These propositions were referred to the Committee of Detail without debate or consideration of them, by the House. [Farrand, II, 340–42]

Debates, Tuesday, 28 August 1787

Mr. PINCKNEY, urging the propriety of securing the benefit of the Habeas corpus in the most ample manner, moved “that it should not be suspended but on the most urgent occasions, & then only for a limited time not exceeding twelve months.”

Mr. RUTLEDGE was for declaring the Habeas Corpus inviolable—He did not conceive that a suspension could ever be necessary at the same time through all the States—

Mr. GOVR. MORRIS moved that “The privilege of the writ of Habeas Corpus shall not be suspended, unless where in cases of Rebellion or invasion the public safety may require it.”

Mr. WILSON doubted whether in any case a suspension could be necessary, as the discretion now exists with Judges, in most important cases to keep in Gaol or admit to Bail.

The first part of Mr. GOVR. MORRIS’ motion, to the word “unless” was agreed to nem. con.—on the remaining part.

N.H. ay. Mas. ay. Ct. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N.C. no. S.C. no. Geo. no. [Ayes 7; noes 3] [James Madison’s Notes, Farrand, II, 438]

Resolution Referred to Committee of Style, 10 September 1787

The privilege of the writ of Habeas Corpus shall not be suspended; unless where in cases of rebellion or invasion the public safety may require it. [Farrand, II, 576]

Committee of Style Report, 12 September 1787

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it. [Broadside, CDR, 290]

* * * * *

Bill of Attainder and Ex Post Facto Laws

U.S. Constitution, Article 1, Section 9

No bill of attainder or ex post facto law shall be passed.

Debates, Wednesday, 22 August 1787

MR. GERRY & MR. MCHENRY moved to insert after the 2d. sect. art: 7. the clause following, to wit, “The Legislature shall pass no bill of attainder nor any ex post facto law.”

Mr. Gerry urged the necessity of this prohibition, which he said was greater in the National than the State Legislature, because the number of members in the former being fewer, they were on that account the more to be feared.

MR. GOVR. MORRIS thought the precaution as to ex post facto laws unnecessary; but essential as to bills of attainder.

MR. ELLSWORTH contended that there was no lawyer, no civilian who would not say that ex post facto laws were void of themselves. It cannot then be necessary to prohibit them.

MR. WILSON was against inserting anything in the Constitution as to ex post facto laws. It will bring reflexions on the Constitution—and proclaim that we are ignorant of the first principles of Legislation, or are constituting a Government which will be so.

The question being divided, The first part of the motion relating to bills of attainder was agreed to *nem. contradicente*.

On the second part relating to ex post facto laws—

MR. CARROLL remarked that experience overruled all other calculations. It had proved that in whatever light they might be viewed by civilians or others, the State Legislatures had passed them, and they had taken effect.

MR. WILSON. If these prohibitions in the State Constitutions have no effect, it will be useless to insert them in this Constitution. Besides, both sides will agree to the principle & will differ as to its application.

MR. WILLIAMSON. Such a prohibitory clause is in the Constitution of N. Carolina, and tho it has been violated, it has done good there & may do good here, because the Judges can take hold of it.

DOCR. JOHNSON thought the clause unnecessary, and implying an improper suspicion of the National Legislature.

MR. RUTLEDGE was in favor of the clause.

On the question for inserting the prohibition of ex post facto laws.

N.H. ay. Mas. ay. Cont. no. N.J. no. Pa. no. Del. ay. Md. ay. Virga. ay. N.C. divid. S.C. ay. Geo. ay. [Ayes 7; noes 3; divided 1] [James Madison’s Notes, Farrand, II, 375–76]

Debates, Wednesday, 22 August 1787

Moved [by Gerry and McHenry] that the legislature should pass no ex post facto laws or bills of attainder.

G. MORRIS, WILSON, Dr. JOHNSON etc. thought the first an unnecessary guard as the principles of justice law etc. were a perpetual bar to such—To say that the legislature shall not pass an ex post facto law is the same as to declare they shall not do a thing contrary to common sense—that they shall not cause that to be a crime which is no crime—

Carried in the affirmative. [James McHenry's Notes, Farrand, II, 378–79]

Debates, Wednesday, 29 August 1787

Mr. DICKINSON mentioned to the House that on examining Blackstone's Commentaries, he found that the terms "ex post facto" related to criminal cases only; that they would not consequently restrain the States from retrospective laws in civil cases, and that some further provision for this purpose would be requisite. [James Madison's Notes, Farrand, II, 448–49]

Resolution Submitted to the Committee of Style, Monday, 10 September 1787

The Legislature shall pass no bill of attainder nor any ex post facto laws. [Farrand, II, 571]

Committee of Style Report, Wednesday, 12 September 1787

No bill of attainder shall be passed, nor any ex post facto law. [James Madison's Notes, Farrand, II, 596]

Debates, Friday, 14 September 1787

Col: MASON moved to strike out from the clause (art I sect 9) "No bill of attainder nor any ex post facto law shall be passed" the words "nor any ex post facto law." He thought it not sufficiently clear that the prohibition meant by this phrase was limited to cases of a criminal nature—and no Legislature ever did or can altogether avoid them in Civil cases.

Mr. GERRY 2ded. the motion but with a view to extend the prohibition to "Civil cases," which he thought ought to be done.

On the question; all the States were—no. [James Madison's Notes, Farrand, II, 617]

George Mason's Objections, Saturday, 15 September 1787

Both the general legislature and the State legislature are expressly prohibited making *ex post facto* laws; though there never was nor can be a legislature but must and will make such laws, when necessity and

the public safety require them; which will hereafter be a breach of all the constitutions in the Union, and afford precedents for other innovations. [George Mason Notes, Farrand, II, 640]

* * * * *

Jury Trials in Criminal Cases and Trials in the Vicinage

U.S. Constitution, Article 3, Section 2

The Trial of all crimes, except in cases of impeachment; shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

Resolution Referred to the Committee of Detail, Monday, 23 July 1787

That Trials for Criml. Offences be in the State where the Offe was comd—by Jury— [Papers of the Committee of Detail IV, Farrand, II, 144]

Crimes shall be tried & in the State, in which where they shall be committed; and The Trial of them all Criml Offences,—except in Cases of Impeachment—shall be by Jury. [Papers of the Committee of Detail IX, Farrand, II, 173]

Committee of Detail Report, Monday, 6 August 1787

[Article X] *Sect. 4.* The trial of all criminal offences (except in cases of impeachments) shall be in the State where they shall be committed; and shall be by jury. [Broadside, CDR, 268]

Proceedings, Tuesday, 28 August 1787

Sect. 4—was so amended nem. con. as to read “The trial of all crimes (except in cases of impeachment) shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, then the trial shall be at such place or places as the Legislature may direct.” The object of this amendment was to provide for trial by jury of offences committed out of any State. [James Madison’s Notes, Farrand, II, 438]

Resolution Submitted to the Committee of Style, Monday, 10 September 1787

Sect. 4. The trial of all crimes (except in cases of impeachments) shall be by jury and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State

then the trial shall be at such place or places as the Legislature may direct. [James Madison's Notes, Farrand, II, 576]

Committee of Style Report, Wednesday, 12 September 1787

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed. [Broadside, CDR, 294]

* * * * *

Treason

U.S. Constitution, Article 3, Section 3

Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

Committee of Detail Report, Monday, 6 August 1787

Article VII

Sect. 2. Treason against the United States shall consist only in levying war against the United States, or any of them; and in adhering to the enemies of the United States, or any of them. The Legislature of the United States shall have power to declare the punishment of treason. No person shall be convicted of treason, unless on the testimony of two witnesses. No attainder of treason shall work corruption of blood, nor forfeiture, except during the life of the person attainted. [Broadside, CDR, 264]

Debates, Monday, 20 August 1787

Article VII, Sect. 2. concerning Treason which see [above].

Mr. MADISON thought the definition too narrow. It did not appear to go as far as the Stat. of Edwd. III. He did not see why more latitude might not be left to the Legislature. It wd. be as safe as in the hands of State legislatures; and it was inconvenient to bar a discretion which

experience might enlighten, and which might be applied to good purposes as well as be abused.

Mr. MASON was for pursuing the Stat: of Edwd. III.

Mr. GOVR. MORRIS was for giving to the Union an exclusive right to declare what shd. be treason. In case of a contest between the U.S. and a particular State, the people of the latter must, under the disjunctive terms of the clause, be traitors to one or other authority.

Mr. RANDOLPH thought the clause defective in adopting the words "in adhering" only. The British Stat: adds "giving them aid and comfort" which had a more extensive meaning.

Mr. ELLSWORTH considered the definition as the same in fact with that of the Statute.

Mr. GOVR. MORRIS "adhering" does not go so far as "giving aid and Comfort" or the latter words may be restrictive of "adhering." In either case the Statute is not pursued.

Mr. WILSON held "giving aid and comfort" to be explanatory, not operative words; and that it was better to omit them—

Mr. DICKINSON thought the addition of "giving aid & comfort" unnecessary & improper; being too vague and extending too far—He wished to know what was meant by the "testimony of two witnesses," whether they were to be witnesses to the same overt act or to different overt acts. He thought also that proof of an overt-act ought to be expressed as essential in the case.

DOCR. JOHNSON considered "giving aid & comfort" as explanatory of "adhering" & that something should be inserted in the definition concerning overt-acts. He contended that Treason could not be both agst. the U. States—and individual States; being an offence agst. the Sovereignty which can be but one in the same community—

Mr. MADISON remarked that "and" before "in adhering" should be changed into "or" otherwise both offences (viz. of levying war, & of adhering to the Enemy) might be necessary to constitute Treason. He added that as the definition here was of treason against *the U.S.* it would seem that the individual States wd. be left in possession of a concurrent power so far as to define & punish treason particularly agst. themselves; which might involve double punishmt.

It was moved that the whole clause be recommitted (which was lost, the votes being equally divided).

N.H. no. Mas. no. Ct. no N.J. ay. Pa. ay. Del. no. Md. ay. Va. ay. N.C. divid. S.C. no. Geo. ay. [Ayes 5; noes 5; divided 1]

Mr. WILSON & DOCR. JOHNSON moved, that "or any of them" after "United States" be struck out in order to remove the embarrassment: which was agreed to nem. con.—

Mr. MADISON: This has not removed the embarrassment. The same Act might be treason agst. the United States as here defined—and agst. a particular State according to its laws.

Mr. ELLSWORTH: There can be no danger to the Genl authority from this; as the laws of the U. States are to be paramount.

DOCT. JOHNSON was still of opinion there could be no Treason agst. a particular State. It could not even at present, as the Confederation now stands; the Sovereignty being in the Union; much less can it be under the proposed System.

Col. MASON. The United States will have a qualified sovereignty only. The individual States will retain a part of the Sovereignty. An Act may be treason agst. a particular State which is not so against the U. States. He cited the Rebellion of Bacon in Virginia as an illustration of the doctrine.

DOCT. JOHNSON: That case would amount to Treason agst. the Sovereign, the supreme Sovereign, the United States—

Mr. KING observed that the controversy relating to Treason might be of less magnitude than was supposed; as the legislature might punish capitally under other names than Treason.

Mr. GOV. MORRIS and Mr. RANDOLPH wished to substitute the words of the British Statute (and moved to postpone Sect. 2. art VII in order to consider the following substitute—“Whereas it is essential to the preservation of liberty to define precisely and exclusively what shall constitute the crime of Treason, it is therefore ordained, declared & established, that if a man do levy war agst. the U.S. within their territories, or be adherent to the enemies of the U.S. within the said territories, giving them aid and comfort within their territories or elsewhere, and thereof be provably attainted of open deed by the People of his condition, he shall be adjudged guilty of Treason.”)

On this question

N.H. Mas. no. Ct. no. N.J. ay. Pa. no. Del. no. Md. no. Va. ay. N.C. no. S.C. no. Geo. no. [Ayes 2; noes 8]

It was moved to strike out “agst. United States” after “treason” so as to define treason generally—and on this question.

Mas. ay. Ct. ay. N.J. ay. Pa. ay. Del. ay. Md. ay. Va. no. N.C. no. S.C. ay. Geo. ay. [Ayes 8; noes 2]

It was then moved to insert after “two witnesses” the words “to the same overt act.”

DOCT. FRANKLIN wished this amendment to take place—prosecutions for treason were generally virulent; and perjury too easily made use of against innocence.

Mr. WILSON: much may be said on both sides. Treason may sometimes be practised in such a manner, as to render proof extremely difficult—as in a traitorous correspondence with an Enemy.

On the question—as to same overt act.

N.H. ay. Mas. ay. Ct. ay. N.J. no. Pa. ay. Del. ay. Md. ay. Va. no. N.C. no. S.C. ay. Geo. ay. [Ayes 8; noes 3]

Mr. KING moved to insert before the word “power” the word “sole,” giving the U. States the exclusive right to declare the punishment of Treason.

Mr. BROOM 2ds. the motion—

Mr. WILSON in cases of a general nature, treason can only be agst. the U. States. and in such they shd have the sole right to declare the punishment—yet in many cases it may be otherwise. The subject was however intricate and he distrusted his present judgment on it.

Mr. KING this amendment results from the vote defining treason generally by striking out agst. the U. States; which excludes any treason agst. particular States. These may however punish offences as high misdemeanors.

On inserting the word “sole.” (It passed in the negative.)

N.H. ay. Mas. ay. Ct. no. N.J. no. Pa. ay. Del. ay. Md. no. Va. no. N.C. no. S.C. ay. Geo. no. [Ayes 5; noes 6]

Mr. WILSON: The clause is ambiguous now. “Sole” ought either to have been inserted—or “against the U.S.” to be reinstated.

Mr. KING: No line can be drawn between levying war and adhering to enemy—agst. the U. States and agst. an individual States—Treason agst. the latter must be so agst. the former.

Mr. SHERMAN: Resistance agst. the laws of the U. States as distinguished from resistance agst. the laws of a particular State, forms the line—

Mr. ELLSWORTH: The U.S. are sovereign on one side of the line dividing the jurisdictions—the States on the other—each ought to have power to defend their respective Sovereignties.

Mr. DICKINSON: War or insurrection agst. a member of the Union must be so agst. the whole body; but the Constitution should be made clear on this point.

The clause was reconsidered nem. con.—& then, Mr. WILSON & Mr. ELLSWORTH moved to reinstate “agst. the U.S.” after “Treason”—on which question

N.H. no. Mas. no. Ct. ay. N.J. ay. Pa. no. Del. no. Md. ay. Va. ay. N.C. ay. S.C. no. Geo. ay. [Ayes 6; noes 5]

Mr. MADISON was not satisfied with the footing on which the clause now stood. As treason agst. the U. States involves Treason agst. partic-

ular States, and vice versa, the same act may be twice tried & punished by the different authorities—

Mr. GOVR. MORRIS viewed the matter in the same lights—

(It was moved & 2ded to amend the Sentence to read—“Treason agst. the U.S. shall consist only in levying war against them, or in adhering to their enemies” which was agreed to.)

Col. MASON moved to insert the words “giving them aid comfort.” as restrictive of “adhering to their Enemies &c”—the latter he thought would be otherwise too indefinite—This motion was agreed to (Cont. Del. & Georgia only being in the Negative).

Mr. L. MARTIN moved to insert after conviction &c—“or on confession in open court”—and on the question (the negative States thinking the words superfluous) it was agreed to N.H. ay Mas. no. Ct. ay. N.J. ay. Pa. ay. Del. ay. Md. ay. Va. ay. N.C. divd. S.C. no. Geo. no. [Ayes 7; noes 3; divided 1]

Art. VII. Sect—2. as amended was then agreed to nem. con. [James Madison’s Notes, Farrand, II, 345–50]

* * * * *

Prohibition of Religious Tests for Officeholding

U.S. Constitution, Article 6

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

Committee of Detail Report, Monday, 6 August 1787

XX

The Members of the Legislatures and the executive and judicial officers of the United States, and of the several States, shall be bound by oath to support this Constitution. [Broadside, CDR, 269]

Debates, Monday, 20 August 1787 (excerpts)

Mr. [CHARLES] PINCKNEY submitted to the House, in order to be referred to the Committee of detail, the following propositions. . . .

No religious test or qualification shall ever be annexed to any oath of office under the authority of the U.S. . . .

These propositions were referred to the Committee of detail without debate or consideration of them, by the House. [James Madison's Notes, Farrand, II, 340–42]

Debates, Thursday, 30 August 1787

Art: XX [of the Committee of Detail Report was] taken up.—“or affirmation” was added after “oath.”

Mr. [CHARLES] PINCKNEY moved to add to the art:—“but no religious test shall ever be required as a qualification to any office or public trust under the authority of the U. States.”

Mr. SHERMAN thought it unnecessary, the prevailing liberality being a sufficient security agst. such tests.

Mr. GOVR. MORRIS & Genl. [CHARLES COTESWORTH] PINCKNEY approved the motion.

The motion was agreed to nem. con. and then the whole Article, N.C. only no. & Md. divided. [James Madison's Notes, Farrand, II, 468]

Provisions Not Accepted by the Convention

The Constitutional Convention considered safeguarding several rights—some protections were included in the Constitution, others were not. The debates in this section discuss rights that were not protected in the final version of the Constitution.

Bill of Rights

Charles Pinckney's Plan, Tuesday, 29 May 1787 (excerpts)

Mr. PINCKNEY submitted to the House, in order to be referred to the Committee of detail, the following propositions—“Each House shall be the Judge of its own privileges, and shall have authority to punish by imprisonment every person violating the same; or who, in the place where the Legislature may be sitting and during the time of its Session, shall threaten any of its members for any thing said or done in the House, or who shall assault any of them therefor—or who shall assault or arrest any witness or other person ordered to attend either of the Houses in his way going or returning; or who shall rescue any person arrested by their order.” . . .

“The liberty of the Press shall be inviolably preserved”

“No troops shall be kept up in time of peace, but by consent of the Legislature”

“The military shall always be subordinate to the Civil power, and no grants of money shall be made by the Legislature for supporting military Land forces, for more than one year at a time”

“No soldier shall be quartered in any House in time of peace without consent of the owner.” . . .

These propositions were referred to the Committee of detail without debate or consideration of them, by the House. [James Madison’s Notes, Farrand, II, 340–42]

Debates, Wednesday 12 September 1787

Mr. WILLIAMSON, observed to the House that no provision was yet made for juries in Civil cases and suggested the necessity of it.

Mr. GORHAM. It is not possible to discriminate equity cases from those in which juries are proper. The Representatives of the people may be safely trusted in this matter.

Mr. GERRY urged the necessity of Juries to guard agst. corrupt Judges. He proposed that the Committee last appointed should be directed to provide a clause for securing the trial by Juries.

Col: MASON perceived the difficulty mentioned by Mr. Gorham. The jury cases cannot be specified. A general principle laid down on this and some other points would be sufficient. He wished the plan had been prefaced with a Bill of Rights, & would second a Motion if made for the purpose—It would give great quiet to the people; and with the aid of the State declarations, a bill might be prepared in a few hours.

Mr. GERRY concurred in the idea & moved for a Committee to prepare a Bill of Rights. Col: MASON 2ded the motion.

Mr. SHERMAN was for securing the rights of the people where requisite. The State Declarations of Rights are not repealed by this Constitution; and being in force are sufficient—There are many cases where juries are proper which cannot be discriminated. The Legislature may be safely trusted.

Col: MASON. The Laws of the U.S. are to be paramount to State Bills of Rights. On the question for a Come [i.e., Committee] to prepare a Bill of Rights

N.H. no. Mas. abst. Ct. no. N.J. no. Pa. no. Del. no. Md. no. Va. no. N.C. no. S.C. no Geo. no. [Ayes 0; noes 10; absent 1] [James Madison’s Notes, Farrand, II, 587–88]

Debates, Saturday, 15 September 1787 (excerpts)

Mr. GERRY, stated the objections which determined him to withhold his name from the Constitution. . . . 3. To establish a tribunal without juries, which will be a Star-chamber as to Civil cases. Under such a view of the Constitution, the best that could be done he conceived was to

provide for a second general Convention. [James McHenry's Notes, Farrand, II, 632–33]

George Mason's Objections, Saturday, 15 September 1787 (excerpts)

There is no Declaration of Rights, and the laws of the general government being paramount to the laws and constitution of the several States, the Declaration of Rights in the separate States are no security. Nor are the people secured even in the enjoyment of the benefit of the common law (which stands here upon no other foundation than its having been adopted by the respective acts forming the constitutions of the several States). . . .

There is no declaration of any kind, for preserving the liberty of the press, or the trial by jury in civil causes (cases); nor against the danger of standing armies in time of peace. . . . [Farrand, II, 637, 640]

* * * * *

Freedom of the Press

Charles Pinckney's Plan, Tuesday, 29 May 1787 (excerpts)

Mr. PINCKNEY submitted to the House, in order to be referred to the Committee of detail the following propositions—. . . .

“The liberty of the Press shall be inviolably observed” [James Madison's Notes, Farrand, II, 341]

Debates, Friday, 14 September 1787

Mr. PINCKNEY and Mr. GERRY, moved to insert [in Article 1, section 9] a declaration, “that the liberty of the press should be inviolably observed.”

Mr. SHERMAN. It is unnecessary. The power of Congress does not extend to the press.

On the question, it passed in the negative,—

Massachusetts, Maryland, Virginia, South Carolina, aye,—4; New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, North Carolina, Georgia, no,—7.¹ [James Madison's Notes, Farrand, II, 617–18]

1. James McHenry recorded in his notes the vote was 6 noes and 5 ayes. [James McHenry's notes, Farrand, II, 660]

George Mason's Objections, Saturday, 15 September 1787

There is no declaration of any kind, for preserving the liberty of the press. . . . [Farrand, II, 640]

* * * * *

Jury Trial in Civil Cases*Charles Pinckney's Plan, Tuesday, May 29 1787*

The next Article provides for the privilege of the Writ of Habeas Corpus—the trial by Jury in all cases, Criminal as well as civil— [Farrand, III, 122]

Proceedings, Tuesday, 28 August 1787

Sect. 4—was so amended nem: con: as to read “The trial of all crimes (except in cases of impeachment) shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, then the trial shall be at such place or places as the Legislature may direct.” The object of this amendment was to provide for trial by jury of offences committed out of any State. [Madison’s Notes, Farrand, II, 438]

Debates, Wednesday, 12 September 1787

Mr. WILLIAMSON, observed to the House that no provision was yet made for juries in Civil cases and suggested the necessity of it.

Mr. GORHAM. It is not possible to discriminate equity cases from those in which juries are proper. The Representatives of the people may be safely trusted in this matter.

Mr. GERRY urged the necessity of Juries to guard agst. corrupt Judges. He proposed that the Committee last appointed should be directed to provide a clause for securing the trial by Juries.

Col: MASON perceived the difficulty mentioned by Mr. Gorham. The jury cases cannot be specified. A general principle laid down on this and some other points would be sufficient. He wished the plan had been prefaced with a Bill of Rights, & would second a Motion if made for the purpose—It would give great quiet to the people; and with the aid of the State declarations, a bill might be prepared in a few hours.

Mr GERRY concurred in the idea & moved for a Committee to prepare a Bill of Rights. Col: Mason 2ded the motion.

Mr. SHERMAN. was for securing the rights of the people where requisite. The State Declarations of Rights are not repealed by this Constitution; and being in force are sufficient—There are many cases where juries are proper which cannot be discriminated. The Legislature may be safely trusted. [Madison’s Notes, Farrand, II, 587]

Debates, Saturday, 15 September 1787

Art III. sect. 2. parag: 3. Mr. [CHARLES] PINCKNEY & Mr. GERRY moved to annex to the end. “And a trial by jury shall be preserved as usual in civil cases.”

Mr. GORHAM. The constitution of Juries is different in different States and the trial itself is *usual* in different cases in different States,

Mr. KING urged the same objections

Genl. [CHARLES COTESWORTH] PINCKNEY also. He thought such a clause in the Constitution would be pregnant with embarrassments

The motion was disagreed to nem: con: [Madison’s Notes, Farrand, II, 628]

Debates, Saturday, 15 September 1787

[Elbridge Gerry:] The Judiciary will be a Star Chamber. [Rufus King’s Notes, Farrand, II, 635]

George Mason’s Objections, Saturday, 15 September 1787

There is no declaration of any kind, for preserving the liberty of the press or the trial by jury in civil cases. . . [Farrand, II, 640]

VI. RIGHTS UNDER THE ARTICLES OF CONFEDERATION

Introduction

The Articles of Confederation created a unicameral Congress possessing only those powers that were “expressly enumerated” in the Articles themselves. Most importantly, the Confederation Congress could not operate directly on people, but dealt only with states. Consequently, the Articles did not contain a bill of rights. For the most part, rights were protected in state bills of rights and in the body of state constitutions, and thus the public debate over rights during the Confederation years was usually conducted on the state level. An example of this debate follows immediately with the debate over religious freedom in Virginia.

Rights, however, were periodically discussed on some national issues. When Congress proposed the Impost of 1783 as an amendment to the Articles of Confederation that would give Congress the power to levy a federal tariff to be used to pay the wartime debt, the issue of how the tariff would be collected and enforced became important debates over rights. Writing under several different pseudonyms in 1786, Abraham Yates, Jr., argued that the implementation of the Impost of 1783 would violate provisions of the New York state constitution of 1777. In ratifying the Impost, all of the states attached provisos that in essence limited the federal judiciary in prosecutions against smugglers and others who allegedly violated the Impost. No one being prosecuted could be deprived of their rights as embodied in their state bills of rights and constitutions and trials could be held only in state courts. This “reverse incorporation” occurred 140 years before *Gillow v. New York* (1925) first incorporated the U.S. Bill of Rights onto the states through the “equal protection of the law” provision of the Fourteenth Amendment.

Rights also became an issue in adopting the Northwest Ordinance in July 1787. Because Congress appointed the governor, secretary of state, and the three judges of the judiciary, an abbreviated bill of rights was included in the ordinance. Finally, in September 1787 a small number of delegates to the Confederation Congress opposed the Constitution when considering how to submit it to the states for ratification. Richard Henry Lee of Virginia proposed that Congress should propose amendments to the Constitution including a bill of rights. In a compromise between Federalists and Antifederalists—Congress sent the Constitu-

tion to the states without its approbation, while Lee's amendments (including his bill of rights) were stricken from the journal. Lee, however, included copies of his bill of rights in several letters to prominent Anti-federalists and his letter to Governor Edmund Randolph of Virginia with Lee's bill of rights were widely printed in newspapers throughout the country.

Religious Freedom in Virginia, 1784–1786

Before the American Revolution, several colonies including Virginia had made the Anglican Church their established church. Virginia's Declaration of Rights adopted in June 1776 provided for religious freedom, stating "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 are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity, towards each other."

After the peace, with diminished private support for the clergy, a movement arose in Virginia to support a bill that would provide public funds for Christian non-Catholic ministers. To many this bill calling for a general assessment seemed to be imperative given the importance of religion and morality to a well-functioning society and government. Some, however, viewed the general assessment as the re-creation of an established church that would primarily benefit Episcopal ministers. The Virginia House of Delegates sharply divided over the issue. Prominent political leaders both in and outside of the legislature supported the measure, including Governor Patrick Henry, Chancellor Edmund Pendleton, and President of the Confederation Congress Richard Henry Lee. George Washington would have preferred that the bill had not been proposed, but given the fact that it was being considered, he privately endorsed it. James Madison and George Mason staunchly opposed the measure, which neared enactment in November 1784 but was postponed to the October 1785 session. The draft bill was printed and submitted for public consideration.

During the legislative hiatus, the public debate over the General Assessment bill intensified. A handful of petitions supported the measure, while more than eighty petitions opposing the bill circulated that were eventually signed by almost 11,000 people before being submitted to the House of Delegates in October 1785. At the request of several friends, James Madison anonymously wrote one of the opposing petitions, which was entitled "A Memorial and Remonstrance." At least thirteen copies of Madison's petition circulated that were submitted with 1,552 signatures. With such a lopsided outcry, the legislature tabled the measure. Instead, Madison took up Thomas Jefferson's 1777 proposed bill for religious freedom, which the legislature had considered in 1779, and adopted it on 16 January 1786. A week later, Madison summarized the act's passage and jubilantly informed Jefferson that the act had in America "extinguished for ever the ambitious hope of making laws for the human mind" (Madison to Jefferson, 22 January, Rutland, *Madison*, VIII, 473–74).

A Memorial and Remonstrance, c. June 1785¹

To the Honorable the General Assembly of the
Commonwealth of Virginia
A Memorial and Remonstrance

We the subscribers, citizens of the said Commonwealth, having taken into serious consideration, a Bill printed by order of the last Session of General Assembly, entitled “A Bill establishing a provision for Teachers of the Christian Religion,” and conceiving that the same if finally armed with the sanctions of a law, will be a dangerous abuse of power, are bound as faithful members of a free State to remonstrate against it, and to declare the reasons by which we are determined. We remonstrate against the said Bill,

1. Because we hold it for a fundamental and undeniable truth, “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.”² The Religion then of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is in its nature an unalienable right. It is unalienable, because the opinions of men, depending only on the evidence contemplated by their own minds cannot follow the dictates of other men: It is unalienable also, because what is here a right towards men, is a duty towards the Creator. It is the duty of every man to render to the Creator such homage and such only as he believes to be acceptable to him. This duty is precedent, both in order of time and in degree of obligation, to the claims of Civil Society. Before any man can be considered as a member of Civil Society, he must be considered as a subject of the Governour of the Universe: And if a member of Civil Society, who enters into any subordinate Association, must always do it with a reservation of his duty to the General Authority; much more must every man who becomes a member of any particular Civil Society, do it with a saving of his allegiance to the Universal Sovereign. We maintain therefore that in matters of Religion, no mans right is abridged by the institution of Civil Society and that Religion is wholly exempt from its cognizance. True it is, that no other rule exists, by which any question which may divide a Society, can be ultimately determined, but the will of the majority; but it is also true that the majority may trespass on the rights of the minority.

2. Because if Religion be exempt from the authority of the Society at large, still less can it be subject to that of the Legislative Body. The latter are but the creatures and vicegerents of the former. Their jurisdiction is both derivative and limited: it is limited with regard to the

co-ordinate departments, more necessarily is it limited with regard to the constituents. The preservation of a free Government requires not merely, that the metes and bounds which separate each department of power be invariably maintained; but more especially that neither of them be suffered to overleap the great Barrier which defends the rights of the people. The Rulers who are guilty of such an encroachment, exceed the commission from which they derive their authority, and are Tyrants. The People who submit to it are governed by laws made neither by themselves nor by an authority derived from them, and are slaves.

3. Because it is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of Citizens, and one of the noblest characteristics of the late Revolution. The free men of America did not wait till usurped power had strengthened itself by exercise, and entangled the question in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the principle. We revere this lesson too much soon to forget it. Who does not see that the same authority which can establish Christianity, in exclusion of all other Religions, may establish with the same ease any particular sect of Christians, in exclusion of all other Sects? that the same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever?

4. Because the Bill violates that equality which ought to be the basis of every law, and which is more indispensable, in proportion as the validity or expediency of any law is more liable to be impeached. If "all men are by nature equally free and independent," all men are to be considered as entering into Society on equal conditions; as relinquishing no more, and therefore retaining no less, one than another, of their natural rights. Above all are they to be considered as retaining an "*equal* title to the free exercise of Religion according to the dictates of Conscience." Whilst we assert for ourselves a freedom to embrace, to profess and to observe the Religion which we believe to be of divine origin, we cannot deny an equal freedom to those whose minds have not yet yielded to the evidence which has convinced us. If this freedom be abused, it is an offence against God, not against man: To God, therefore, not to man, must an account of it be rendered. As the Bill violates equality by subjecting some to peculiar burdens, so it violates the same principle, by granting to others peculiar exemptions. Are the Quakers and Menonists the only sects who think a compulsive support of their Religions unnecessary and unwarrantable? Can their piety alone be entrusted with the care of public worship? Ought their Religions to be

endowed above all others with extraordinary privileges by which proselytes may be enticed from all others? We think too favorably of the justice and good sense of these denominations to believe that they either covet pre-eminences over their fellow citizens or that they will be seduced by them from the common opposition to the measure.

5. Because the Bill implies either that the Civil Magistrate is a competent Judge of Religious Truth; or that he may employ Religion as an engine of Civil policy. The first is an arrogant pretension falsified by the contradictory opinions of Rulers in all ages, and throughout the world: the second an unhallowed perversion of the means of salvation.

6. Because the establishment proposed by the Bill is not requisite for the support of the Christian Religion. To say that it is, is a contradiction to the Christian Religion itself, for every page of it disavows a dependence on the powers of this world: it is a contradiction to fact; for it is known that this Religion both existed and flourished, not only without the support of human laws, but in spite of every opposition from them, and not only during the period of miraculous aid, but long after it had been left to its own evidence and the ordinary care of Providence. Nay, it is a contradiction in terms; for a Religion not invented by human policy, must have pre-existed and been supported, before it was established by human policy. It is moreover to weaken in those who profess this Religion a pious confidence in its innate excellence and the patronage of its Author; and to foster in those who still reject it, a suspicion that its friends are too conscious of its fallacies to trust it to its own merits.

7. Because experience witnesseth that ecclesiastical establishments, instead of maintaining the purity and efficacy of Religion, have had a contrary operation. During almost fifteen centuries has the legal establishment of Christianity been on trial. What have been its fruits? More or less in all places, pride and indolence in the Clergy, ignorance and servility in the laity, in both, superstition, bigotry and persecution. Enquire of the Teachers of Christianity for the ages in which it appeared in its greatest lustre; those of every sect, point to the ages prior to its incorporation with Civil policy. Propose a restoration of this primitive State in which its Teachers depended on the voluntary rewards of their flocks, many of them predict its downfall. On which Side ought their testimony to have greatest weight, when for or when against their interest?

8. Because the establishment in question is not necessary for the support of Civil Government. If it be urged as necessary for the support of Civil Government only as it is a means of supporting Religion, and it be not necessary for the latter purpose, it cannot be necessary for

the former. If Religion be not within the cognizance of Civil Government how can its legal establishment be necessary to Civil Government? What influence in fact have ecclesiastical establishments had on Civil Society? In some instances they have been seen to erect a spiritual tyranny on the ruins of the Civil authority; in many instances they have been seen upholding the thrones of political tyranny: in no instance have they been seen the guardians of the liberties of the people. Rulers who wished to subvert the public liberty, may have found an established Clergy convenient auxiliaries. A just Government instituted to secure & perpetuate it needs them not. Such a Government will be best supported by protecting every Citizen in the enjoyment of his Religion with the same equal hand which protects his person and his property; by neither invading the equal rights of any Sect, nor suffering any Sect to invade those of another.

9. Because the proposed establishment is a departure from that generous policy, which, offering an Asylum to the persecuted and oppressed of every Nation and Religion, promised a lustre to our country, and an accession to the number of its citizens. What a melancholy mark is the Bill of sudden degeneracy? Instead of holding forth an Asylum to the persecuted, it is itself a signal of persecution. It degrades from the equal rank of Citizens all those whose opinions in Religion do not bend to those of the Legislative authority. Distant as it may be in its present form from the Inquisition, it differs from it only in degree. The one is the first step, the other the last in the career of intolerance. The magnanimous sufferer under this cruel scourge in foreign Regions, must view the Bill as a Beacon on our Coast, warning him to seek some other haven, where liberty and philanthropy in their due extent, may offer a more certain repose from his Troubles.

10. Because it will have a like tendency to banish our Citizens. The allurements presented by other situations are every day thinning their number. To superadd a fresh motive to emigration by revoking the liberty which they now enjoy, would be the same species of folly which has dishonoured and depopulated flourishing kingdoms.

11. Because it will destroy that moderation and harmony which the forbearance of our laws to intermeddle with Religion has produced among its several sects. Torrents of blood have been spilt in the old world, by vain attempts of the secular arm, to extinguish Religious discord, by proscribing all difference in Religious opinion. Time has at length revealed the true remedy. Every relaxation of narrow and rigorous policy, wherever it has been tried, has been found to assuage the disease. The American Theatre has exhibited proofs that equal and compleat liberty, if it does not wholly eradicate it, sufficiently destroys

its malignant influence on the health and prosperity of the State. If with the salutary effects of this system under our own eyes, we begin to contract the bounds of Religious freedom, we know no name that will too severely reproach our folly. At least let warning be taken at the first fruits of the threatened innovation. The very appearance of the Bill has transformed “that Christian forbearance, love and charity,” which of late mutually prevailed, into animosities and jealousies, which may not soon be appeased. What mischiefs may not be dreaded, should this enemy to the public quiet be armed with the force of a law?

12. Because the policy of the Bill is adverse to the diffusion of the light of Christianity. The first wish of those who enjoy this precious gift ought to be that it may be imparted to the whole race of mankind. Compare the number of those who have as yet received it with the number still remaining under the dominion of false Religions; and how small is the former! Does the policy of the Bill tend to lessen the disproportion? No; it at once discourages those who are strangers to the light of revelation from coming into the Region of it; and countenances by example the nations who continue in darkness, in shutting out those who might convey it to them. Instead of Levelling as far as possible, every obstacle to the victorious progress of Truth, the Bill with an ignoble and unchristian timidity would circumscribe it with a wall of defence against the encroachments of error.

13. Because attempts to enforce by legal sanctions, acts obnoxious to so great a proportion of Citizens, tend to enervate the laws in general, and to slacken the bands of Society. If it be difficult to execute any law which is not generally deemed necessary or salutary, what must be the case, where it is deemed invalid and dangerous? And what may be the effect of so striking an example of impotency in the Government, on its general authority?

14. Because a measure of such singular magnitude and delicacy ought not to be imposed, without the clearest evidence that it is called for by a majority of citizens, and no satisfactory method is yet proposed by which the voice of the majority in this case may be determined, or its influence secured. “The people of the respective counties are indeed requested to signify their opinion respecting the adoption of the Bill to the next Session of Assembly.” But the representation must be made equal, before the voice either of the Representatives or of the Counties will be that of the people. Our hope is that neither of the former will, after due consideration, espouse the dangerous principle of the Bill. Should the event disappoint us, it will still leave us in full confidence, that a fair appeal to the latter will reverse the sentence against our liberties.

15. Because finally, “the equal right of every citizen to the free exercise of his Religion according to the dictates of conscience” is held by the same tenure with all our other rights. If we recur to its origin, it is equally the gift of nature; if we weigh its importance, it cannot be less dear to us; if we consult the “Declaration of those rights which pertain to the good people of Virginia, as the basis and foundation of Government,” it is enumerated with equal solemnity, or rather studied emphasis. Either then, we must say, that the Will of the Legislature is the only measure of their authority; and that in the plenitude of this authority, they may sweep away all our fundamental rights; or, that they are bound to leave this particular right untouched and sacred: Either we must say, that they may controul the freedom of the press, may abolish the Trial by Jury, may swallow up the Executive and Judiciary Powers of the State; nay that they may despoil us of our very right of suffrage, and erect themselves into an independent and hereditary Assembly or, we must say, that they have no authority to enact into law the Bill under consideration. We the Subscribers say, that the General Assembly of this Commonwealth have no such authority: And that no effort may be omitted on our part against so dangerous an usurpation, we oppose to it, this remonstrance; earnestly praying, as we are in duty bound, that the Supreme Lawgiver of the Universe, by illuminating those to whom it is addressed, may on the one hand, turn their Councils from every act which would affront his holy prerogative, or violate the trust committed to them: and on the other, guide them into every measure which may be worthy of his blessing, may redound to their own praise, and may establish more firmly the liberties, the prosperity and the happiness of the Commonwealth.

1. Printed: Rutland, *Madison*, VIII, 298–304.

2. Quoted from the Virginia Declaration of Rights (June 1776) (BoR, I, 113).

An Act for Religious Freedom, 16 January 1786¹

An ACT for establishing RELIGIOUS FREEDOM.

Whereas Almighty God hath created the mind free; that all attempts to influence it by temporal punishments or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the Holy Author of our religion, who being Lord both of body and mind, yet chuse not to propagate it by coercions on either, as was in his Almighty power to do; that the impious presumption of legislators and rulers, civil as well as ecclesiastical, who being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and

modes of thinking as the only true and infallible, and as such endeavouring to impose them on others, hath established and maintained false religions over the greatest part of the world, and through all time; that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor, whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness, and is withdrawing from the ministry those temporary rewards, which proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labours for the instruction of mankind; that our civil rights have no dependence on our religious opinions, any more than our opinions in physics or geometry; that therefore the proscribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously of those privileges and advantages to which in common with his fellow-citizens he has a natural right; that it tends only to corrupt the principles of that religion it is meant to encourage, by bribing with a monopoly of worldly honours and emoluments, those who will externally profess and conform to it; that though indeed these are criminal who do not withstand such temptation, yet neither are those innocent who lay the bait in their way; that to suffer the civil Magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is time enough for the rightful purposes of civil government, for its officers to interfere when principles break out into overt acts against peace and good order; and finally, that truth is great and will prevail if left to herself, that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human interposition disarmed of her natural weapons, free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them:

Sect. II. *BE it enacted by the General Assembly*, That no man shall be compelled to frequent or support any religious worship, place, or Ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of

his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinion in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

Sect. III. AND though we well know that this Assembly elected by the people for the ordinary purposes of legislation only, have no power to restrain the Acts of succeeding Assemblies, constituted with powers equal to our own, and that therefore to declare this Act to be irrevocable would be of no effect in law; yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any Act shall be hereafter passed to repeal the present, or to narrow its operation, such Act will be an infringement of natural right.

1. Printed: *Acts Passed at a General Assembly* [17 October 1785–21 January 1786] (Richmond, 1786) (Evans 20104), Chapter XXXIV, pp. 26–27.

The Incorporation of State-Guaranteed Rights unto the Confederation Government, 1783–1786

Even before the Articles of Confederation were formally adopted, the Continental Congress considered amendments for the proposed form of government. In February 1781 Congress submitted to the states a proposal allowing Congress to levy a five percent tariff the revenue of which was earmarked to pay the wartime debt (CDR, 140–41). All the states but Rhode Island approved the Impost of 1781, but because Article XIII of the Articles of Confederation required the unanimous approval of the state legislatures for amendments, the Impost failed.

In April 1783 Congress again proposed an amendment to the Articles giving Congress the power to levy a five percent tariff for twenty-five years to pay the wartime debt (CDR, 146–48). All of the states adopted this amendment, but all placed restrictions on Congress' power to levy the tariff. Congress rejected some of New York's restrictions and in February 1787 the New York legislature refused to alter its ratification. This effectively killed the Impost of 1783.

The Impost of 1783 was in essence part of an ongoing debate over the division of power that had begun during the colonial era in determining what powers could be exercised by the colonial assemblies individually and what powers were exclusively retained by the imperial authorities in London. The Declaratory Act of 1766 addressed this controversial subject by stating that Parliament had the power to bind Americans in all cases whatsoever. The debate over "federalism" continued in Congress in 1776 and 1777 during the drafting of the Articles of Confederation. This debate ended with the inclusion of Article II that provided that the states retained their sovereignty, freedom, and independence, while Congress had only those powers that were "expressly delegated" to it by the Articles of Confederation.

At the state level, the new Revolutionary-era state constitutions made it clear that state governments alone possessed powers over the people, while state bills of rights placed specific limitations on the state governments thus protecting the rights of the people. The state ratifications of the Impost of 1783 gave Congress the authority to levy a national tariff thus giving Congress an independent source of revenue, but provided that prosecutions against individuals had to be tried by juries exclusively in local and state courts while a number of common-law judicial rights were also enumerated that the confederation government could not violate. The fear of Confederation customs collections perhaps was encouraged by the memory of the 1768–1769 prosecution of John Hancock for smuggling in his ship *Liberty*. In a case involving the alleged smuggling of £3,000 of madeira, Hancock was arrested, fined £9,000, and had his ship confiscated with other fines amounting to £100,000. John Adams served as Hancock's attorney, and the case was eventually dropped but the ship was not returned to Hancock.

Other state limitations placed upon Congress in levying a tariff provided that Congress could not violate the protections afforded to their citizens in their state constitutions, bills of rights, and laws. In an attempt to justify New York's restrictions, "A Republican," presumably Melancton Smith, published a sixteen-page pamphlet (Evans 44979) printed in Albany, dated 7 October 1786, summarizing the limitations adopted by some of the states. "A Republican" indicated "that the acts of the different states were lately published in the *New-York Gazetteer*" and "that not a single state in the union, had fully adopted the system recommended" by Congress. The essay by "A Republican" was included in a new sixty-eight-page pamphlet published in New York in 1787 (Evans 20783). This pamphlet also included all of the state ratifications of the Impost of 1783. The excerpts from "A Republican" printed below list some of the state restrictions on Congress.

Many of the same federalism issues were soon to be raised during the debate over the ratification of the Constitution. This debate gained traction because of the failure to incorporate a bill of rights in the Constitution, the ambiguity of the necessary and proper clause, and the fear that the supremacy clause would invalidate the protections in state constitutions and bills of right.

*Massachusetts Act Ratifying the Impost of 1783, 20 October 1783 (excerpt)*¹

... [A duty of five percent ad valorem] to be collected under such regulations as the United States in Congress assembled shall direct, provided such regulations do not extend so far as to subject any citizen of this Commonwealth to be carried out of the same for trial, or to compel him to answer to any action without the State, or to deprive him of a trial according to the constitution and laws of this Commonwealth, or to convict him criminally without a trial by Jury, or his own voluntary confession in open Court, or to impose excessive fines, or to inflict punishments which are either cruel or unusual in the Commonwealth, or to break open any dwelling-house, store or warehouse, at any other than the day time, and between the rising and the setting of the

sun, or then without a warrant from a lawful magistrate, and issued upon the oath of the party requesting the same: And also provided, that the trial on all seizures and questions under this act, shall be before the Court of Common Pleas in the several counties within this Commonwealth where such seizures shall be made and such questions arise; and from the judgment of the said Court, either party shall be allowed an appeal to the Supreme Judicial Court of this Commonwealth, before whom a trial shall in all cases be final; and that in no case a forfeiture shall exceed the goods seized, and the vessel in which such goods may be imported, with her cargo. . . .

1. *Acts and Laws of the Commonwealth of Massachusetts [1783]* (Boston, 1783) (Evans 18021), 40–42. Similar provisions were included in the acts passed by Virginia (18 December 1783, Evans 18283), New Hampshire (2 January 1784, Evans 18622), North Carolina (2 June 1784, Evans 18660). Broader language protecting the rights of citizens under the state constitution were enacted by Connecticut (13 May 1784, Evans 18411) and Maryland (11 March 1786, Evans 19770).

A Republican: Excerpts from State Adoptions of the Impost, 1787¹

The act of Connecticut varies from the requisitions of Congress in the following instances: . . .

2d. It enacts that all such rules and ordinances, as shall be made by the United States in Congress assembled, for levying and collecting the duties, “not inconsistent with the constitution, and the internal police of that state, shall be duly observed.”

This will effectually guard the rights of the state; for it is manifest that no rule or ordinance, inconsistent with the constitution, or government, or laws of that state can have any force or validity in Connecticut. . . .

The act of New-York varies from the system recommended by Congress in the following particulars: . . .

. . . if the act had vested Congress with the power to levy the duties, to have inserted a proviso similar to the clause in the act of Connecticut, or the proviso in the acts of Delaware or Maryland; but this would have defeated the intention of the Legislature, for, I believe I may venture to assert that, in such case, no rule, regulation, or ordinance of the United States, for collecting the duty, would have the force of law in that state. . . .

The act of the state of Delaware varies from the system recommended by Congress in

1st. It provides that the rules and ordinances to be established by Congress, for collecting and levying the duties, be not repugnant to the constitution and laws of that state. . . .

The Maryland act varies from the system recommended by Congress, in these instances: . . .

2d. It limits the powers granted to Congress by providing that their ordinances, regulations, and arrangements shall not be repugnant to the constitution of that state. . . .

. . . In several of the states, those regulations must be conformable to the constitutions of the states, and there[fore], every ordinance or regulation which is not so, will be void. . . .

Here it may be proper to observe, that should ever any rash act take place, by which questions, respecting the powers of Congress in this particular, may be brought into discussion, they must be determined in the courts of justice in the states where they arise; in which political considerations however weighty they may appear, and the vague opinions of men of over heated imaginations, must give way to the deliberate and sober decisions of judges, under the solemn ties of an oath, and governed by the rigid principles of law *alone*. . . .

I think it may be accomplished without essentially changing our federal government, or breaking upon the constitutions of the different states, which, for their wisdom, are justly the admiration of the enlightened part of mankind, and which we are bound by every tie to hold sacred: and to violate these inestimable charters of the rights of the people, for what can only be considered as a temporary expedient at best, I shall hold most unpardonable. . . .

It is *money*, and not *power* that ought to be the object;—the former will pay our *debts*—the latter might destroy our *liberties*.

1. "A Republican," *The Resolutions of Congress, of the 18th of April 1783* . . . (New York, 1787) (Evans 20783), 54, 55, 56, 57, 59–60, 60, 62.

Northwest Ordinance, 13 July 1787 (excerpt)¹

On 1 March 1784, the Confederation Congress formally accepted the cession of lands north and west of the Ohio River ceded by Virginia in 1781 and 1783. Congress soon considered the sale and organization of this territory. The organization of the territorial government culminated in the passage of the Northwest Ordinance on 13 July 1787. The ordinance provided for the congressional appointment of a territorial governor with a three-year term, a secretary of state with a four-year term, and a three-judge court with tenure for good behavior. Once the population of the territory reached 5,000, a territorial general assembly could be appointed consisting of a legislative council with five members with five-year terms and a house of representatives to be apportioned according to the number of free male inhabitants. Representatives were to have two-year terms. The ordinance provided that "the governor, legislative Council, and house of representatives shall have authority to make laws in all

cases for the good government of the district not repugnant to the principles and articles in this Ordinance established and declared,” provided that all bills passed by a majority of both the council and the assembly, “be referred to the governor for his assent; but no bill or legislative Act whatever, shall be of any force without his assent.” The ordinance closed with a bill of rights consisting of six articles that formed a compact between the original states and “the people and states in the said territory.” The First Federal Congress re-enacted the Northwest Ordinance in 1789, primarily to provide for the appointment of officers by presidential nomination and confirmation by the Senate instead of a simple appointment by the Confederation Congress.

The sixth article of the Ordinance prohibited slavery or indentured servitude in the territory but provided a clause for the return of runaway slaves and servants. When Congress considered the ordinance in July 1787, Massachusetts delegate Nathan Dane, the author of the ordinance, removed article six because a majority of the states attending Congress were from the South. Southern delegates, however, encouraged Dane to restore the prohibition because Southerners did not want a competing slave economy north of the Ohio River. Furthermore, by overtly prohibiting slavery north of the Ohio, Congress tacitly would be allowing slavery in the Southwest Territory. With freedom just across the Ohio River, a fugitive slave clause was added to the sixth article. The Articles of Confederation had an extradition clause aimed at runaway criminals but no fugitive slave clause.

Some Southerners and some long-time residents of the Northwest Territory objected to the complete prohibition of slavery. Bartholomew Cardiveau expressed such concerns in a long letter to Arthur St. Clair, the governor of the Northwest Territory. The “obnoxious resolution” was said to be an *ex post facto* law that would illegally “deprive a considerable number of citizens of their property, acquired and enjoyed long before they were under the dominion of the United States.” Some proponents of the prohibition suggested that it would only prohibit “the future importation of slaves into the Federal country; that it was not meant to affect the rights of the ancient inhabitants.” Promises were allegedly made that a clause would be inserted in the re-enacted Ordinance “explanatory of its real meaning, sufficient to ease the apprehensions of the people, but it was not done.” Slave owners in the Northwest Territory, particularly Spanish-speaking residents, had sworn allegiance to Spain or had moved (with their estates) west of the Mississippi River. If this complete prohibition of slavery persisted, “the Western country, will infallibly remain for a long time in a state of infancy.” Cardiveau also suggested that allowing slavery to exist in the Northwest Territory would provide a place to which freedmen could be transported “without violating the right of property, and without endangering the safety, peace and manners of the whites by a promiscuous intermixture of so many blacks turned loose upon society, destitute of industry, and uncontrolled by the principles of morality, or the habits of good society, an insensible and gentler annihilation of servitude might be introduced in the United States” (Bartholomew Cardiveau to Arthur St. Clair, Danville, Kentucky, 30 June 1789, William B. Smith, ed., *The St. Clair Papers . . .* (2 vols., Cincinnati, Ohio, 1882), II, 117–19, 119n–20n.)

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws, and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory;—to provide also for the establishment of states and permanent government therein, and for their admission to a share in the federal Councils on an equal footing with the original states, at as early periods as may be consistent with the general interest.

It is hereby Ordained and declared by the authority aforesaid, That the following articles shall be considered as Articles of compact between the original States and the people and states in the said territory, and forever remain unalterable, unless by common consent, to wit.

Article the First. No person demeaning himself in a peaceable and orderly manner shall ever be molested on account of his mode of worship or religious sentiments in the said territory.

Article the Second. The inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law; all persons shall be bailable unless for Capital Offences, where the proof shall be evident, or the presumption great; all fines shall be moderate, and no cruel or unusual punishments shall be inflicted; no man shall be deprived of his liberty or property but by the judgment of his peers, or the law of the land; and should the public exigencies make it Necessary for the common preservation to take any persons property, or to demand his particular services, full compensation shall be made for the same; and in the just preservation of rights and property it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall in any manner whatever interfere with, or affect private contracts or engagements bona fide and without fraud, previously formed.

Article the Third. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools, and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorised by Congress; but laws founded in justice and humanity shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

Article the Fourth. The said territory and the States which may be formed therein shall forever remain a part of this confederacy of the United States of America, subject to the articles of Confederation and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory, shall be subject to pay a part of the federal debts contracted or to be contracted, and a proportional part of the expences of government, to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other states; and the taxes for paying their proportion, shall be laid and levied by the authority and direction of the legislatures of the district or districts or new states, as in the original states, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts or new states shall never interfere with the primary disposal of the soil by the United states in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands the property of the United states; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same shall be common highways, and forever free, as well to the inhabitants of the said territory, as to the Citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax, impost, or duty therefor.

Article the Fifth. There shall be formed in the said territory not less than three, nor more than five states; and the boundaries of the states, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows to wit; The western state in the said territory shall be bounded by the Mississippi, the Ohio and Wabash rivers; a direct line drawn from the Wabash and Post Vincents due north to the territorial lines between the United States and Canada, and by the said territorial line to the lake of the Woods and Mississippi. The middle state shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio; by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern state shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line; provided however, and it is further understood and declared that the boundaries of these three states, shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two states in that part

of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of lake Michigan: and whenever any of the said states shall have sixty thousand free inhabitants therein, such state shall be admitted by its delegates into the Congress of the United states on an equal footing with the original states in all respects whatever; and shall be at liberty to form a permanent constitution and state government; provided the constitution and government so to be formed, shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than sixty thousand.

Article the Sixth. There shall be neither slavery nor involuntary servitude in the said territory otherwise than in punishment of crimes whereof the party shall have been duly convicted: provided always that any person escaping into the same from whom labor or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed and conveyed to the person claiming his, or her labor, or service as aforesaid.

1. MS, PCC, Item 175, Copies of Ordinances of the Congress, 1781–88, pp. 121–34, DNA. The ordinance was printed by order of Congress. For the entire Ordinance, see CDR, 168–74.

Richard Henry Lee's Proposed Amendments in the Confederation Congress, 27 September 1787¹

The delegates to the Constitutional Convention signed the engrossed Constitution on 17 September 1787. Article VII of the Constitution abandoned the procedure for ratifying amendments to the Articles of Confederation found in Article XIII. Instead, the congressional approbation of amendments was omitted and the responsibility for the ratification of the proposed constitution was transferred from the unanimous approval of the state legislatures to the approval by nine states in ratifying conventions called by the state legislatures and elected by the people. Although the Constitution did not require the approval of Congress, the delegates to the Constitutional Convention agreed to send the Constitution to Congress for transmittal to the states.

Congress received and read the Constitution on Thursday, 20 September. It was decided to consider the Constitution beginning on Wednesday, 26 September. Of the thirty-three members attending Congress between 20 and 28 September when the Constitution was debated, ten had been delegates to the Constitutional Convention. All signed the Constitution, except for William Pierce who had left Philadelphia earlier to attend Congress. Five delegates had serious objections to the Constitution while two others expressed some concerns. Those who supported the Constitution wanted to transmit it to the states with the approbation of Congress, while Antifederalists wanted to transmit the Consti-

tution with an indication that the delegates to the Constitutional Convention had violated the Articles of Confederation, Congress' resolution of 21 February 1787 calling the Convention, and their state instructions. These opponents of the Constitution wanted amendments proposed that would be submitted to a second general convention of the states. Toward the end of the debate on 27 September, Virginia delegate Richard Henry Lee proposed amendments to the Constitution that included a bill of rights.

All of the delegates to Congress realized that the majority in favor of the Constitution was overwhelming and that the approbation of Constitution was easily obtainable. But Federalists wanted to avoid any appearance of opposition. A compromise was achieved. The Constitution was to be sent to the states without the approbation of Congress and all opposition to the Constitution (including Lee's amendments) were to be stricken from Congress' Journals. A resolution "unanimously" transmitting the Constitution was adopted on 28 September.

Lee made copies of his amendments and sent them to a number of friends, sometimes indicating that he was not averse to the publication and distribution of his letter and the amendments. Lee's letter to Virginia Governor Edmund Randolph (including Lee's amendments as a postscript) was published and circulated widely throughout the country in newspapers, magazines, and anthologies. (For Lee's letters and amendments, see CC:325 and BoR, I, 145–48). Only his proposed amendments are included here.

It having been found from universal experience, that the most express declarations and reservations are necessary to protect the just rights and liberty of mankind from the silent, powerful and ever active conspiracy of those who govern; and it appearing to be the sense of the good people of America, by the various bills or declarations of rights whereon the government of the greater number of states are founded. That such precautions are necessary to restrain and regulate the exercise of the great powers given to rulers. In conformity with these principles, and from respect for the public sentiment on this subject, it is submitted,—That the new constitution proposed for the government of the United States be bottomed upon a declaration or bill of rights, clearly and precisely stating the principles upon which this social compact is founded, to wit: That the rights of conscience in matters of religion ought not to be violated—That the freedom of the press shall be secured—That the trial by jury in criminal and civil cases, and the modes prescribed by the common law for the safety of life in criminal prosecutions, shall be held sacred—That standing armies in times of peace are dangerous to liberty, and ought not to be permitted, unless assented to by two-thirds of the members composing each house of the legislature under the new constitution—That the elections should be free and frequent; That the right administration of justice should be secured by the independency of the judges; That excessive bail,

excessive fines, or cruel and unusual punishments, should not be demanded or inflicted: That the right of the people to assemble peaceably, for the purpose of petitioning the legislature, shall not be prevented; That the citizens shall not be exposed to unreasonable searches, seizure of their persons, houses, papers or property; and it is necessary for the good of society, that the administration of government be conducted with all possible maturity of judgment, for which reason it hath been the practice of civilized nations, and so determined by every state in the Union: That a council of state or privy council should be appointed to advise and assist in the arduous business assigned to the executive power. Therefore let the new constitution be so amended, as to admit the appointment of a privy council, to consist of eleven members chosen by the president, but responsible for the advice they may give. For which purpose the advice given shall be entered in a council book, and signed by the giver, in all affairs of great moment, and that the counsellors act under an oath of office. In order to prevent the dangerous blending of the legislative and executive powers, and to secure responsibility, the privy, and not the senate shall be joined with the president in the appointment of all officers, civil and military, under the new constitution; that the constitution be so altered as not to admit the creation of a vice-president, when duties as assigned may be discharged by the privy council, except in the instance of proceeding in the senate, which may be supplied by a speaker chosen from the body of senators by themselves, as usual, that so may be avoided the establishment of a great officer of state, who is sometimes to be joined with the legislature, and sometimes to administer the government, rendering responsibility difficult, besides giving unjust and needless pre-eminence to that state from whence this officer may have come. That such parts of the new constitution be amended as provide imperfectly for the trial of criminals by a jury of the vicinage, and to supply the omission of a jury trial in civil causes or disputes about property between individuals, whereby the common law is directed, and as generally it is secured by the several state constitutions. That such parts of the new constitution be amended, as permit the vexatious and oppressive callings of citizens from their own country, and all controversies between citizens of different states and between citizens and foreigners, to be tried in a far distant court, and as it may be without a jury, whereby in a multitude of cases, the circumstances of distance and expence may compel numbers to submit to the most unjust and ill-founded demand—That in order to secure the rights of the people more effectually from violation, the power and respectability of the house of representatives be increased, by increasing the number of

delegates to that house, where the popular interest must chiefly depend for protection—That the constitution be so amended as to increase the number of votes necessary to determine questions in cases where a bare majority may be seduced by strong motives of interest to injure and oppress the minority of the community, as in commercial regulations, where advantage may be taken of circumstances to ordain rigid and premature laws, that will in effect amount to monopolies, to the great impoverishment of those states whose peculiar situation expose them to such injuries.

1. The 6 December 1787 issue of the Petersburg *Virginia Gazette* has not been located. The text of Lee's amendments is taken from the *Pennsylvania Packet* of 20 December 1787, the earliest known reprint. The *Packet* reprinted the amendments under the dateline "PETERSBURG, Dec. 6."

VII. THE CALL FOR A SECOND CONSTITUTIONAL CONVENTION

Introduction

At the opening of the Constitutional Convention on 29 May 1787, the Virginia Plan provided that a provision for amending the Constitution ought to be included in the final version of the Constitution and that these potential amendments should not require the assent of Congress. On 23 June the Convention unanimously agreed that an amendment provision was necessary, but that the provision for the non-assent of Congress was postponed. The Committee of Detail reported on 6 August that Congress should call a constitutional convention when requested by two-thirds of the state legislatures. On 30 August the Convention unanimously agreed that Congress could call a constitutional convention whenever it pleased to do so. On 10 September it was voted to add that amendments could also be proposed by a vote of the legislatures of two-thirds of the states. Five days later in response to George Mason's suggestion that amendments weakening congressional power might be difficult to obtain, Gouverneur Morris and Elbridge Gerry proposed and the Convention unanimously agreed that whenever two-thirds of the state legislatures requested Congress to call a constitutional convention, such a convention must be called.

Toward the end of the Constitutional Convention, Edmund Randolph and George Mason of Virginia proposed that the state ratifying conventions should be allowed to propose amendments to the Constitution. According to Randolph and Mason, proposed amendments should be submitted to a second constitutional convention that would determine whether the amendments should be approved as part of the Constitution or rejected. The delegates voting by states unanimously rejected such a proposal.

During the ten-month debate over ratifying the Constitution, Anti-federalists argued that the Constitution should not be ratified without amendments that were to be considered by a second constitutional convention. No state ratifying convention made its ratification of the Constitution conditional on the call of a second general convention. Alternatively, seven state conventions proposed that amendments to the Constitution should be considered by Congress in conformity with Article V of the Constitution. New York's ratifying Convention went further. In addition to recommending amendments under the provisions

of Article V, it approved a circular letter on 26 July 1788 that called for a second constitutional convention to amend the Constitution. The Circular Letter was sent to all of the states and to the Confederation Congress. Only the Virginia and New York legislatures requested that Congress call a second general convention to propose amendments to the Constitution in conformity to Article V of the Constitution.

The debates in the Constitutional Convention, New York's Circular Letter, and the legislative debate in Virginia and New York are included in Section VII.

Constitutional Convention

Rejects Calling a Second Convention 31 August–15 September 1787

Debates, Wednesday, 31 August 1787 (excerpts)¹

Art. XXII taken up, to wit, "This Constitution shall be laid before the U.S. in Congs. assembled for their approbation; and it is the opinion of this Convention that it should be afterwards submitted to a Convention chosen, in each State under the recommendation of its Legislature, in order to receive the ratification of such Convention" . . .

Mr. GERRY moved to postpone art: XXII.

Col. MASON 2ded. the motion, declaring that he would sooner chop off his right hand than put it to the Constitution as it now stands. He wished to see some points not yet decided brought to a decision, before being compelled to give a final opinion on this article. Should these points be improperly settled, his wish would then be to bring the whole subject before another general Convention.

Mr. GOVR. MORRIS was ready for a postponement. He had long wished for another Convention, that will have the firmness to provide a vigorous Government, which we are afraid to do.

Mr. RANDOLPH stated his idea to be, in case the final form of the Constitution should not permit him to accede to it, that the State Conventions should be at liberty to propose amendments to be submitted to another General Convention which may reject or incorporate them, as shall be judged proper.

On the question for postponing

N.H. no. Mas. no. Ct. no. N.J. ay. Pa. no. Del. no. Md. ay. Va. no.
N.C. ay. S.C. no. Geo. no. [Ayes 3; noes 8]

On the question on Art: XXII

N.H. ay. Mas. ay. Ct. ay. N.J. ay. Pa. ay. Del. ay. Md. no. Va. ay. N.C. ay.
S.C. ay. Geo. ay. [Ayes 10; noes 1]

1. Madison Notes, Farrand, II, 478–79.

Debates, Monday, 10 September 1787 (excerpts)¹

Mr. GERRY moved to reconsider art: XXI & XXII. . . .

Mr. RANDOLPH declared if no change should be made in this part of the plan, he should be obliged to dissent from the whole of it. He had from the beginning he said been convinced that radical changes in the system of the Union were necessary. Under this conviction he had brought forward a set of republican propositions as the basis and outline of a reform. These Republican propositions had however, much to his regret been widely, and in his opinion, irreconcilably departed from—In this state of things it was his idea and he accordingly meant to propose, that the State Conventions shd. be at liberty to offer amendments to the plan,—and that these should be submitted to a second General Convention, with full power to settle the Constitution finally—He did not expect to succeed in this proposition, but the discharge of his duty in making the attempt, would give quiet to his own mind.

Mr. WILSON was against a reconsideration for any of the purposes which had been mentioned. . . .

On the question for reconsidering the two articles. XXI & XXII—
N.H. divd. Mas. no. Ct. ay. N.J. ay. Pa. no. Del. ay. Md. ay. Va. ay.
N.C. ay. S.C. no. Geo. ay. [Ayes 7; noes 3; divided 1]. . . .

Mr. RANDOLPH took this opportunity to state his objections to the System. They turned on the Senate's being made the Court of Impeachment for trying the Executive—on the necessity of 3/4 instead of 2/3 of each house to overrule the negative of the President—on the smallness of the number of the Representative branch,—on the want of limitation to a standing army—on the general clause concerning necessary and proper laws—on the want of some particular restraint on Navigation acts—on the power to lay duties on exports—on the Authority of the general Legislature to interpose on the application of the *Executives* of the States—on the want of a more definite boundary between the General & State Legislatures—and between the General and State Judiciaries—on the unqualified power of the President to pardon treasons—on the want of some limit to the power of the Legislature in regulating their own compensations. With these difficulties in his mind, what course he asked was he to pursue? Was he to promote the establishment of a plan which he verily believed would end in Tyranny? He was unwilling he said to impede the wishes and Judgment of the Convention—but he must keep himself free, in case he should be honored with a Seat in the Convention of his State, to act according to the dictates of his judgment. The only mode in which his embarrassments could be removed, was that of submitting the plan to Congs. to go from them to the State Legislatures, and from these to State Conventions

having power to adopt reject or amend; the process to close with another general Convention with full power to adopt or reject the alterations proposed by the State Conventions, and to establish finally the Government—He accordingly proposed a Resolution to this effect.

DOCR. FRANKLIN 2ded the motion

Col. MASON urged & obtained that the motion should lie on the table for a day or two to see what steps might be taken with regard to the parts of the system objected to by Mr. RANDOLPH.

1. Madison Notes, Farrand, II, 559–61, 563–64.

Debates, Saturday, 15 September 1787¹

Mr. RANDOLPH animadverting on the indefinite and dangerous power given by the Constitution to Congress, expressing the pain he felt at differing from the body of the Convention, on the close of the great & awful subject of their labours, and anxiously wishing for some accommodating expedient which would relieve him from his embarrassments, made a motion importing “that amendments to the plan might be offered by the State Conventions, which should be submitted to and finally decided on by another general Convention” Should this proposition be disregarded, it would he said be impossible for him to put his name to the instrument. Whether he should oppose it afterwards he would not then decide but he would not deprive himself of the freedom to do so in his own State, if that course should be prescribed by his final judgment—

Col: MASON 2ded. & followed Mr. Randolph in animadversions on the dangerous power and structure of the Government, concluding that it would end either in monarchy, or a tyrannical aristocracy; which, he was in doubt, but one or other, he was sure. This Constitution had been formed without the knowledge or idea of the people. A second Convention will know more of the sense of the people, and be able to provide a system more consonant to it. It was improper to say to the people, take this or nothing. As the Constitution now stands, he could neither give it his support or vote in Virginia; and he could not sign here what he could not support there. With the expedient of another Convention as proposed, he could sign.

Mr. PINCKNEY. These declarations from members so respectable at the close of this important scene, give a peculiar solemnity to the present moment. He descanted on the consequences of calling forth the deliberations & amendments of the different States on the subject of Government at large. Nothing but confusion & contrariety could spring from the experiment. The States will never agree in their plans—And the Deputies to a second Convention coming together under the dis-

cordant impressions of their Constituents, will never agree. Conventions are serious things, and ought not to be repeated—He was not without objections as well as others to the plan. He objected to the contemptible weakness & dependence of the Executive. He objected to the power of a majority only of Congs over Commerce. But apprehending the danger of a general confusion, and an ultimate decision by the Sword, he should give the plan his support.

Mr. GERRY stated the objections which determined him to withhold his name from the Constitution. 1. the duration and re-eligibility of the Senate. 2. the power of the House of Representatives to conceal their journals. 3. the power of Congress over the places of election. 4. the unlimited power of Congress over their own compensation. 5. Massachusetts has not a due share of Representatives allotted to her. 6. 3/5 of the Blacks are to be represented as if they were freemen. 7. *Under* the power over commerce, monopolies may be established. 8. the vice president being made head of the Senate. He could however he said get over all these, if the rights of the Citizens were not rendered insecure. 1. by the general power of the Legislature to make what laws they may please to call necessary and proper. 2. raise armies and money without limit. 3. to establish a tribunal without juries, which will be a Star-chamber as to Civil cases. Under such a view of the Constitution, the best that could be done he conceived was to provide for a second general Convention.

On the question on the proposition of Mr. RANDOLPH, All the States answered—no.

On the question to agree to the Constitution, as amended. All the States aye.

The Constitution was then ordered to be engrossed.
and the House adjourned

1. Madison Notes, Farrand, II, 631–33.

New York Convention

Circular Letter to the Executives of the States Poughkeepsie, 26 July 1788¹

The New York Convention's circular letter presented the case for a second general convention. Written primarily by John Jay, with the assistance of John Lansing, Jr., and Alexander Hamilton, the circular letter, addressed to the executives of the states, noted that the New York Convention and those of some other states had "anxiously desired" that the Constitution be amended. The government created by the Constitution was "very imperfect." Amendments were necessary to allay the fears and discontents of many Americans. The letter

recommended that a general convention be called to amend the Constitution “to meet at a period not far remote.” State legislatures were exhorted to apply to the new Congress under the Constitution to call such a convention to consider the amendments proposed by the various state ratifying conventions.

The Convention asked its president (George Clinton) to sign the circular letter and send it to the executives of all the states. Clinton was also asked to transmit the Convention’s proceedings to the New York legislature at its next session and to request the legislature “to cooperate with our sister States in measures for obtaining a general Convention to consider the amendments and alterations proposed by them and us, as proper to be made in the Constitution of the United States” (RCS:N.Y., 2324–25).

New York Antifederalists were divided on the circular letter. Zephaniah Platt, who had voted to ratify the Constitution, hoped that a general convention would be called as soon as possible, while “the Spirit of Liberty is yet alive,” to consider New York’s amendments and those of the other states (to William Smith, 28 July 1788, RCS:N.Y., 2433).

Melancton Smith, who had a large part in fashioning the compromise on ratification, wrote on 1 January 1789 that Federalists’ “fair promises and pretensions . . . are mere illusions—They intend to urge the execution of the plan in its present form” (to Gilbert Livingston, RCS:N.Y., 2497). Congressman Abraham Yates, Jr., a fierce opponent of the Constitution and a supporter of conditional ratification, was also dubious about getting amendments from a general convention. It will be “an uphill Affair” (to William Smith, 22 September 1788, RCS:N.Y., 2474). Yates elaborated upon his ideas in an article he published under the pseudonym “Sidney” in the *New York Journal*, 4 December 1788, RCS:N.Y., 2480–86n).

James Madison and George Washington were much disturbed by the appearance of the circular letter. Madison wrote to Washington that the letter “has a most pestilent tendency.” An early convention had to “be parried,” or the new system of government “may be at last successfully undermined by its enemies” (11 August 1788, RCS:N.Y., 2454). Washington also believed that the circular letter would “be attended with pernicious consequences” (to Madison, 17–18 August 1788, RCS:N.Y., 2456). Like Washington, Madison was also surprised that the letter was adopted unanimously, and he concluded that the manner of New York’s ratification “will prove more injurious than a rejection would have done” (to Washington, 24 August 1788, RCS:N.Y., 2459).

Some out-of-state newspapers severely criticized the circular letter and New York’s amendments. On 6 and 13 August 1788 widely circulated items in the *Pennsylvania Gazette* charged that the New York amendments “would annihilate the Constitution,” bring back anarchy to America, and “introduce poverty, misery, bloodshed, and slavery into every state in the Union.” The authors of the amendments were compared to “the lawless Indians” who did not “understand a system of government fit for a civilized nation.” The circular letter was described as “impertinent” and it merited “the severest treatment from all the friends of good government.” The *Pennsylvania Gazette* asked that the Constitution be given a fair trial and, if found faulty, it could be amended (DHFFE, I, 46). “X,” addressing the governors of the states, chided New York for dictating to the other states in the Union (*Connecticut Gazette*, 15 August 1788 [DHFFE, I, 46–47]). (For a commentary by a New York Antifederalist on

such attacks, see De Witt Clinton to Charles Clinton, 19 September 1788, RCS: N.Y., 2470–71.)

Beginning in September Federalist fears about a general convention began to subside. John Jay, the principal author of the New York circular letter, believed that if a general convention were obtained “immediately . . . its friends will be satisfied, and if convened three years hence, little danger, perhaps some good, will attend it” (to Edward Rutledge, 15 October 1788, RCS:N.Y., 2474–75). Jay believed that a majority of Antifederalists would be satisfied with a delay. If a delay were obtained, a general convention was not to be feared, especially if people were impressed by the operation of the new government (to George Washington, 21 September 1788, RCS:N.Y., 2472–73). By the end of September, George Washington was less fearful about the calling of a general convention since “all honest men, who are friends to the new Constitution” wanted to give it a chance and those who were “silly” trying to subvert the Constitution had been found out (to Henry Lee, 22 September 1788, DHFFE, IV, 66–67). And in late November, the once fearful James Madison noted that it was “already decided” that the attempt to have another general convention was “a hopeless pursuit” (to Henry Lee, 30 November 1788, Rutland, *Madison*, XI, 372).

Federalists’ initial fears were understandable. Even though eleven states had ratified the Constitution, the opposition to it in some states had been formidable and tenacious. Antifederalists managed, despite Federalist dominance of the newspapers, to disseminate their arguments in favor of amending the Constitution, especially on the need for a bill of rights. The writings of such Antifederalists as “Centinel,” “Cato,” “Brutus,” and “Federal Farmer” were widely circulated in newspapers, broadsides, and pamphlets. Antifederalists also expressed their views in town and county meetings, in legislatures, and in petitions. Occasionally feelings ran so high that violence broke out, especially during celebrations and the elections of Convention delegates.

Strong opposition to the Constitution also manifested itself in the conventions of seven of the eleven ratifying states. As part of their ratifications, Massachusetts, South Carolina, New Hampshire, Virginia, and New York recommended amendments. The Pennsylvania and Maryland conventions refused to recommend amendments, but the minorities of both conventions published their amendments. In August 1788 the North Carolina Convention (Hillsborough) refused to ratify the Constitution until amendments were submitted to Congress and to a general convention. The Convention itself recommended over forty amendments. (See CC:353, 508, 716, 753, 785, 790, 821; and RCS: N.Y., 2326–35. See also BoR, I, 231–77.)

The concerns of Federalists about New York’s circular letter proved to be unfounded. Only in Virginia, some of whose leaders had been interested in convening another general convention, did the legislature react favorably to the circular letter. On 20 November 1788, the Virginia legislature, led by Patrick Henry in the House of Delegates adopted a resolution requesting that the new Congress under the Constitution call a general convention to propose amendments to the Constitution. On 2 December Governor Beverley Randolph transmitted this resolution and letters from the legislature to New York Governor George Clinton and the executives of the other states, asking that they unite with Virginia in calling a general convention.

The other states spent little time considering the circular letter.

- Pennsylvania. In early October 1788 the Federalist-dominated General Assembly, by a vote of 38 to 24, defeated an Antifederalist motion to recommend the circular letter to the next General Assembly.

- Connecticut. In October 1788, Governor Samuel Huntington laid the circular letter before the House of Representatives, but no one in the House, not even Antifederalist leader James Wadsworth, asked that the letter be considered. Nor did anyone comment on its contents.

- Massachusetts. On 31 October 1788 Governor John Hancock submitted the circular letter and New York's proposed amendments to the state legislature along with the amendments proposed by Virginia and North Carolina, and the next day they were referred to a committee of both houses. No further action was taken in this session. At the next session Hancock submitted the Virginia legislature's call for a general convention and reminded the Massachusetts legislature that he had submitted the New York circular letter at the last session. In response, on 17 February 1789 the legislature resolved that Hancock inform the governors of New York and Virginia that a general convention would be expensive and dangerous.

- Rhode Island. Reacting to the circular letter, the General Assembly, dominated by Antifederalists, overwhelmingly adopted on 1 November 1788 a resolution calling upon the state's thirty towns to consider if delegates should be appointed to a general convention and to instruct their representatives to the legislature on what to do if such delegates were appointed. Such advisory referenda were common in Rhode Island. Nine towns voted for a convention, while five were opposed.

- North Carolina. The state legislature—in its November–December 1788 session that convened about three months after the state Convention had failed to ratify the Constitution—adopted a resolution providing for the appointment of five delegates to a general convention. The legislature then appointed five Antifederalists to be delegates.

- Maryland. In December 1788 the House of Delegates, acting on both the circular letter and Virginia's call for a convention, drafted a resolution recommending that the new Congress under the Constitution adopt a way of procuring amendments to the Constitution according to Article V of the Constitution. The resolution was considered but no final vote was taken on it before the legislature adjourned.

- Delaware. In February 1789 the House of Assembly, also acting upon both the circular letter and Virginia's call for a convention that it had received in January, read and accepted a report stating that those documents "contain matters by no means proper for the present consideration of the Legislature" and "that the same should be postponed."

- New Hampshire. In February 1789 Antifederalist Joshua Atherton reported to John Lamb that the only action taken on the circular letter by the Assembly was to appoint a committee to consider it.

- South Carolina. In January 1790 the state legislature, which had just ratified the amendments proposed by the first federal Congress, resolved that it would be "inexpedient" to hold a second constitutional convention as requested by the New York Convention in July 1788.

In Convention at Poughkeepsie, State of New York, July 26th 1788
(Circular)

Sir,

We the Members of the Convention of this State, have deliberately and maturely considered the Constitution proposed for the United States. Several Articles in it appear so exceptionable to a Majority of us, that nothing but the fullest confidence, of obtaining a Revision of them, by a General Convention, and an invincible reluctance to seperating from our Sister States, could have prevailed upon a sufficient Number to ratify it, without stipulating for previous Amendments.—We all unite in opinion that such a Revision will be necessary to recommend it to the approbation and support of a numerous body of our Constituents. We observe that Amendments have been proposed and are anxiously desired by several of the States, as well as by this; and we think it of great Importance that effectual measures be immediately taken for calling a Convention, to meet at a period not far remote: for we are convinced, that the Apprehensions and Discontents which those Articles occasion, cannot be removed or allayed, unless an Act to provide for it, be among the first that shall be past by the New Congress. As it is essential, that an application for the purpose should be made to them, by two thirds of the States[,] We earnestly exhort and request the Legislature of your Commonwealth to take the earliest opportunity of making it—We are persuaded that a similar one will be made by our Legislature at their next Session; and we ardently wish and desire, that the other States may concur in adopting and promoting the Measure—It cannot be necessary to observe, that no Government however constructed can operate well, unless it possesses the confidence and good will of the great Body of the People; And as we desire nothing more, than that the Amendments proposed by this or other States be submitted to the Consideration and Decision of a General Convention, We flatter ourselves that motives of mutual Affection and Conciliation will conspire with the obvious dictates of sound Policy to induce even such of the States as may be content with every Article in the Constitution, to gratify the reasonable desires of that numerous Class of American Citizens who are anxious to obtain Amendments of some of them.

Our Amendments will manifest that none of them originated in local views as they are such as if acceded to, must equally affect every State in the Union—Our Attachment to our Sister States and the confidence we repose in them cannot be more forcibly demonstrated, than by acceding to a Government which many of us think very imperfect, and devolving the power of determining whether that Government shall be

rendered perpetual in its present form, or altered agreeable to our wishes, on a Minority of the States with whom we unite.

We request the favour of your Excellency to lay this Letter before the Legislature of your Commonwealth and we are persuaded that your regard for our National Harmony and good Government will induce you to promote a measure, which we are unanimous in thinking very conducive to those interesting Objects.

We have the honour to be with the highest respect Your Excellencys Most obedient Servants

By the Unanimous order of the Convention.

Geo: Clinton Presidt

1. Printed: RCS:N.Y., 2335–36. The circular letter first appeared in the Poughkeepsie *Country Journal*, on 5 August. It was reprinted in the *New York Daily Advertiser* and *New York Packet*, 8 August, *New York Independent Journal*, 9 August, *New York Impartial Gazetteer*, 9 August (supplement), *Lansingburgh Federal Herald*, 11 August, and *New York Journal*, 14 August, and in thirty-five newspapers outside New York by 1 September: Vt. (1), N.H. (1), Mass. (9), R.I. (3), Conn. (6), N.J. (2), Pa. (4), Md. (3), Va. (2), N.C. (1), S.C. (2), Ga. (1). It also appeared in the August issue of the *Philadelphia American Museum*, in a no-longer-extant broadside printed by Nicholas Power (Evans 21312), and in a broadside published by order of the Rhode Island General Assembly (Evans 21431).

Virginia General Assembly

Requests Congress to Call a Second Constitutional Convention, 20 November 1788

On 27 June 1788, two days after it ratified the Constitution, the Virginia Convention recommended that the first federal Congress consider forty constitutional amendments—twenty in the form of a declaration of rights and twenty designed to change the structure of government created by the Constitution. Speaking for the people, the Convention enjoined the state's future senators and representatives to seek the adoption of these amendments in one of the two methods provided by Article V of the Constitution.

Antifederalists, who had wanted to ratify the Constitution with conditional amendments, refused to trust Congress, which might delay acting on amendments or not act at all. Consequently, they decided to use the second procedure in Article V for proposing amendments, that is, having the state legislatures request that Congress call a constitutional convention, which in turn would propose amendments to the states. Once two-thirds of the state legislatures requested such a convention, Congress was required to summon it. Although opposed to immediate amendments, Virginia Federalists preferred that Congress directly submit amendments to the states for their ratification, rather than calling a second general convention.

On 20 October 1788 the Virginia legislature convened in Richmond and the next day Governor Edmund Randolph turned over to that body the New

York Convention's Circular Letter of 26 July, which called upon the states to join New York in requesting that Congress summon a second constitutional convention "at a Period not far remote." This measure was supported by Randolph, who had long advocated such a convention, and it was even considered by some of "the staunchest friends to the new Constitution," one of whom saw "primâ facie . . . no impropriety in it" (George Lee Turberville to James Madison, 20 and 24 October, Rutland, *Madison*, XI, 309, 316). Many Federalists in the legislature, however, strongly opposed a second convention.

On 29 October Patrick Henry, the most powerful member of the House of Delegates, declared that he would "oppose every measure" for putting the Constitution into motion in Virginia unless the legislature called for a second convention. To the committee of the whole, Henry submitted several resolutions, one of which requested that the legislature apply to Congress for a second convention. Henry charged that "the most precious rights of the people if not cancelled are rendered insecure" by the Constitution. Such language, one Federalist asserted, was "a direct and indecent censure on all those who have befriended the new constitution holding them forth as the betrayers of the dearest rights of the people" (Charles Lee to George Washington, 29 October 1788, Abbot, *Washington Papers, Presidential Series*, I, 82). Henry's resolutions did not surprise Federalists who had been concerned that Virginia and New York would lead "an effort for early amendments" (George Washington to Benjamin Lincoln, 26 October 1788, *ibid.*, 71).

According to Federalist delegate Richard Bland Lee, Federalists hoped to modify Henry's resolution "so as to divest it of it's inflammatory dress—or to postpone it's operation to such a distant period as to give the people of America a fair experiment of the government." This stratagem, however, would be difficult to achieve because Henry, the most effective orator in the House of Delegates, "is old in parliamentary science and is supported by the prejudice and apprehensions of many members of the assembly." Moreover, Federalists in the House were "all young & inexperienced," forming "but a feeble band against him" (to James Madison, 29 October 1788, Rutland, *Madison*, XI, 322–23).

In line with the Virginia Convention's 27 June resolutions, Federalists on 30 October proposed counter-resolutions, calling on Congress to propose a bill of rights and other amendments and stating that until these amendments were ratified, Congress should conform "their Ordinances to the true spirit of the said Bill of Rights and articles of amendment." The House defeated this Federalist substitute 85 to 39, approved Henry's resolutions by a voice vote, and appointed a committee of thirteen Antifederalists—ten of whom as delegates in the state Convention had voted against ratification—to draft the application to Congress and letters to New York and the other states asking them to join Virginia in applying for a second convention. Federalist delegate George Lee Turberville announced that "The triumph of Antifederalism is complete" (to James Madison, 10 November 1788, Rutland, *Madison*, XI, 340).

The committee of thirteen reported on 11 November. Three days later, Federalists submitted a substitute application and substitute letters drafted by Francis Corbin, John Page, and Edward Carrington that conformed to the resolutions of the state Convention, "insisting that the people in that Conven-

tion had pointed out the mode in which amendments should be sought, and that the Assembly ought not to divert the course of their pursuit” (Corbin to James Madison, 12 November, and Carrington to Madison, 14 November 1788, Rutland, *Madison*, XI, 342, 345; and DHFFE, II, 273–79). The House defeated these substitutes. Whereupon, the House approved the committee of thirteen’s application to Congress and its two letters. A jubilant but wary Patrick Henry wrote: “The universal cry is for amendments, & the federals are obliged to join in it; but whether to amuse, or conceal other Views seems dubious” (to Richard Henry Lee, 15 November 1788, Henry Papers, DLC).

The Virginia Senate considered the application and the two letters in a committee of the whole on 18 November 1788 and the next day the Senate adopted them with minor changes. The House of Delegates agreed to the Senate’s alterations on 20 November. George Lee Turberville hoped that the resolutions would “be received as the Child of temporarily triumphant faction—& Ultimately that they will rather be ridiculous & Dangerous” (to James Madison, 16 November 1788, Rutland, *Madison*, XI, 347). Edward Carrington felt that “the palpable untruths contained in the [Antifederalist] drafts ought to fix the condemnation of the people upon them” (to Madison, 18 November, *ibid.*, 352).

On 25 November 1788 the House of Delegates ordered that the application to Congress be engrossed and sent by the governor “to the new Congress, as soon as they shall assemble,” and that the letters to New York Governor George Clinton and the other state executives be prepared, signed, and transmitted “without delay.” The Senate concurred on the 27th. On 2 December newly elected Governor Beverley Randolph, agreeable to an order of the Executive Council, forwarded printed copies of the letters by post, enclosing printed copies of the application to Congress. Randolph asked Clinton and the other state executives to lay this information before their legislatures “as early as possible.” On 15 February 1789, Randolph transmitted the application to Congress to the state’s newly elected federal representatives, who presented it to the U.S. House of Representatives on 5 May 1789. The next day, the House received New York’s call for a second convention. Both applications were entered on the Journal and ordered to be filed.

Most of the state executives received Randolph’s letter in December 1788. Governor Clinton, who had expressed “apprehensions that measures may be taken to retard the delivery of it so as to defeat its utility,” sent the letter and its enclosures to the New York legislature on 26 December, “with the greater pleasure from the persuasion that it will give you satisfaction to find a State, so respectable for wisdom and patriotism, concurring in sentiment with our Convention, respecting the necessity of amendments to the new system of General Government, and the means of obtaining them” (Clinton to John Dawson, 12 December, Mfm:Va. 354; and *Journal of the Assembly of the State of New-York* . . . [11 December 1788–2 March 1789], [Albany, (1789) [Evans 22008], 24).

Federalists decried the appeal for a second convention. James Madison complained that “The measures pursued at Richmond are as impolitic as they are otherwise exceptionable—if alterations of a reasonable sort are really in view, they are much more attainable from Congress than from attempts to bring about another Convention—It is already decided that the latter mode is a

hopeless pursuit" (to Henry Lee, 30 November 1788, Rutland, *Madison*, XI, 372). An anonymous newspaper correspondent (traveling from South Carolina back home to Rhode Island) suggested, in a widely reprinted extract of a letter, that the entire state of Virginia outside of Richmond was "all Federal, and firmly attached to the Constitution." The debate in the House of Delegates, however, had been filled with "virulent Invective . . . and a great Quantity of whining Cant, addressed to the Passions of the weaker Members, holding forth that they must enter into certain Resolves to quiet the Minds of the good People of Virginia." He asserted that Virginians were "at ease and quiet"; it was the Antifederalists in the House of Delegates who "were using their utmost Endeavours to disturb and disquiet the Minds of the People, by asserting, without advancing one Reason or Argument, that their dearest and most valuable Rights were in danger" (*Maryland Journal*, 12 December 1788).

House of Delegates Proceedings, Tuesday, 21 October 1788¹

The Speaker laid before the House several letters from the Governor, stating various matters for the consideration of the General Assembly, and referring to sundry letters and papers enclosed on the subject thereof, which were partly read.

Ordered, That the said letters with their enclosures do lie on the table. And then the House adjourned till to-morrow morning ten o'clock.

1. *Journal of the House of Delegates of the Commonwealth of Virginia* (Richmond, [1789] [Evans 22226]), 3. Hereafter cited as *House Journal*.

House of Delegates Proceedings, Wednesday, 22 October 1788¹

The House resumed the reading of the governor's letters of yesterday with their several enclosures and the same being read;

Resolved, That this House will on *Friday* next resolve itself into a committee of the whole House on the state of the Commonwealth.

Ordered, That the letters from the Governor with their several enclosures be referred to the committee of the whole House on the state of the Commonwealth.

1. Printed: *House Journal*, 3.

House of Delegates Proceedings, Friday, 24 October 1788¹

The order of the day, for the House to resolve itself into a committee of the whole House, on the state of the commonwealth, being read:

Ordered, That the same be put off till to-morrow.

And then the House adjourned till to-morrow twelve o'clock.

1. Printed: *House Journal*, 6.

House of Delegates Proceedings, Saturday, 25 October 1788¹

The order of the day for the House to resolve itself into a committee of the whole House, on the state of the commonwealth; being read.

Ordered, That the same be put off till *Monday* next.

1. Printed: *House Journal*, 7.

**House of Delegates Proceedings, Monday, 27 October 1788
(excerpts)¹**

The House then according to the order of the day, resolved itself into a committee of the whole house on the state of the Commonwealth, and after some time spent therein, Mr. Speaker resumed the chair, and Mr. *Bland* reported, that the committee had, according to order, had the state of the Commonwealth under their consideration, and had come to a resolution thereupon, which he read in his place, and afterwards delivered in at the clerk's table, where the same was again twice read, and agreed to by the House as followeth: . . .

Resolved, That this House will to-morrow, again resolve itself into a committee of the whole House on the state of Commonwealth.

1. Printed: *House Journal*, 8.

House of Delegates Proceedings, Tuesday, 28 October 1788¹

The House then according to the order of the day, resolved itself into a committee of the whole House on the state of the Commonwealth, and after some time spent therein, Mr. Speaker resumed the chair, and Mr. *Bullitt* reported, that the committee had, according to order, again had the state of the Commonwealth under their consideration, and had come to several resolutions thereupon, which they had directed him to report whenever the House should think proper to receive the same.

Ordered, That the said report be received to-morrow.

1. Printed: *House Journal*, 9.

House of Delegates Proceedings, Wednesday, 29 October 1788¹

The House then according to the order of the day, resolved itself into a committee of the whole house on the state of the Commonwealth, and after some time spent therein, Mr. Speaker resumed the chair, and Mr. *Dawson* reported, that the committee had, according to order, again had the state of the Commonwealth under their consid-

eration, but not having time to go through the same, had directed him to move the House for leave to sit again.

Resolved, That this House will, to-morrow again resolve itself into a committee of the whole House on the state of the Commonwealth.

1. Printed: *House Journal*, 10.

House of Delegates Proceedings, Thursday, 30 October 1788¹

The House then according to the order of the day, resolved itself into a committee of the whole House on the state of the Commonwealth, and after some time spent therein, Mr. Speaker resumed the chair, and Mr. *Briggs* reported, that the committee had, according to order again had the state of the Commonwealth under their consideration, and had come to several resolutions thereupon, which he read in his place, and afterwards delivered in at the Clerk's table, where the same were again read, and are as followeth.

WHEREAS the Convention of Delegates of the people of this Commonwealth, did ratify a Constitution or Form of Government for the United States, referred to them for their consideration, and did also declare, that sundry amendments to exceptionable parts of the same ought to be adopted; *And whereas* the subject matter of the amendments agreed to by the said Convention, involves all the great essential and unalienable rights, liberties, and privileges of freemen; many of which if not cancelled are rendered insecure under the said Constitution, until the same shall be altered and amended.

Resolved, That it is the opinion of this committee, That for quieting the minds of the good citizens of this Commonwealth, and securing their dearest rights and liberties, and preventing those disorders, which must arise under a government not founded in the confidence of the people, application be made to the Congress of the United States, so soon as they shall assemble under the said Constitution, to call a Convention for proposing amendments to the same, according to the mode therein directed.²

Resolved, That it is the opinion of this committee, That a committee ought to be appointed to draw up and report to this House a proper instrument of writing, expressing the sense of the General Assembly, and pointing out the reasons which induce them to urge their application thus early for the calling the aforesaid Convention of the States.

Resolved, That it is the opinion of this committee, That the said committee ought to be instructed to prepare the draft of a letter in answer to one received from his Excellency GEORGE CLINTON, Esquire, President of the Convention of *New-York*, and a circular letter on the aforesaid sub-

ject, to the other States in the Union, expressive of the wish of the General Assembly of this Commonwealth, that they may join in an application to the NEW CONGRESS, to appoint a Convention of the States so soon as the Congress shall assemble under the New Constitution.

And the said resolutions being severally again read, a motion was made, and the question being put to amend the same, by striking out from the word "*Whereas*" in the first line to the end, and inserting in lieu thereof, the following words:

"WHEREAS the delegates appointed to represent the good people of this Commonwealth in the late Convention, held in the month of *June* last, did by their act of the 25th of the same month, assent to, and ratify the Constitution recommended on the 17th day of *September* 1787, by the Fœderal Convention for the government of the United States, declaring themselves (with a solemn appeal to the searcher of hearts for the purity of their intentions) under the conviction 'that whatsoever imperfections might exist in the Constitution, ought rather to be examined in the mode prescribed therein, than to bring the Union into danger by a delay, with a hope of obtaining amendments, previous to the ratification;' AND WHEREAS in pursuance of the said declaration, the same Convention did by their subsequent act of the 27th of *June* aforesaid, agree to such amendments to the said Constitution of government for the United States, as were by them deemed necessary to be recommended to the consideration of the Congress, which shall first assemble under the said Constitution, to be acted upon according to the mode prescribed in the fifth article thereof, at the same time enjoining it upon their representatives in Congress, to exert all their influence and use all reasonable and legal methods, to obtain a ratification of the foregoing alterations, and provisions in the manner provided by the fifth article of the said Constitution; and in all Congressional laws to be passed in the mean time, to conform to the spirit of those amendments, as far as the said Constitution would admit;

"*Resolved therefore, that it is the opinion of this committee,* That an application ought to be made, in the name and on the behalf of the Legislature of this Commonwealth, to the Congress of the United States, so soon as they shall assemble under the said Constitution, to pass an act recommending to the Legislatures of the several Stat[e]s, the ratification of a Bill of Rights, and of certain articles of amendments proposed by the Convention of this state, for the adoption of the United States, and that until the said act shall be ratified in pursuance of the fifth article of the said Constitution of government of the United States, Congress do confirm their Ordinances to the true spirit of the said Bill of Rights and articles of amendment.

Resolved, That it is the opinion of this committee, That the Executive ought to be instructed to transmit a copy of the foregoing resolution to the Congress of the United States, so soon as they shall assemble, and to the Legislatures and Executive Authorities of each State in the Union."

It passed in the negative.

Ayes 39.—Noes 85.

The Ayes and Noes being called for by Mr. *Bland*, seconded by Mr. *Turberville*.

The names of those who voted in the Affirmative are, Francis Walker, Zachariah Johnson, John Tate, Joseph Swearingen, Martin M'Ferrau, Lawrence Battaile, Roger West, David Stuart, William Stuart, John Shearman Woodcock, Thomas Smith, George Clendinen, Daniel Fisher, Hezekiah Davison, William Heath, Daniel Broadhead, Larkin Smith, William Thornton, Daniel Fitzhugh, Bernard Moore, Thomas Pinckard, Levin Powell, Richard Bland Lee, William Overton Callis, Richard Morris, James Knox, Samuel Taylor, Francis Corbin, Ralph Wormley, Thomas Laidley, Willis Wilson, Hardin Burnley, Jonathan Parsons, John Elliott, George Lee Turberville, Francis Kertley, George Baxter, James Wilkinson, and John Allen.

The names of those who voted in the Negative are, Jabez Pitt, Edmund Custis, Davis Booker, Peter Randolph, William Cabell, Samuel Jordan Cabell, John Trigg, Thomas Leftwich, James Barnett, Henry Lee, Notlay Conn, Binns Jones, Andrew Meade, Thomas Anderson, John Clarke, John Hunter, Anthony New, Thomas Bedford, John B. Scott, Henry Southall, Benjamin Harrison, Matthew Cheatham, George Markham, French Strother, Joel Early, George Pegram, Robert Bolling, jun., George Booker, James Upshaw, John M'Dowell, James Trotter, Elias Edmonds, John Thompson, William Payne, John Early, Joshua Rentfro, John Geurant, Batte Peterson, Thomas Watkins, Thomas Macon, John Garland, Miles Selden, Nathaniel Wilkinson, Thomas Cooper, Abraham Penn, John Pierce, Francis Boykin, Benjamin Eley, Anderson Scott, John Roane, jun., Richard Johnson, Edward Garland, Green Clay, Thomas Kennedy, Alexander Robinson, Richard Kennon, Lewis Burwell, Daniel Trigg, John Dandrige, William M'Clung, Henry Guy, William Nutt, Abraham Beacham, Benjamin Lankford, Patrick Henry, Tarlton Woodson, Theodorick Bland, Cuthbert Bullitt, William Grayson, Thomas Kemp, William M'Kee, Charles Campbell, Andrew Cowen, Thomas Carter, James Monroe, John Dawson, Lemuel Cocke, John Howell Briggs, Thomas Edmunds, Thomas West, John S. Langhorne, Samuel Edmison, John Lowry, Richard Lee, and Robert Shield.

And then the main question being put that the House do agree with the committee of the whole House, in the said resolutions.

It was resolved in the affirmative.

Ordered, That a committee be appointed pursuant to the said resolutions, and that Mr. *Briggs*, Mr. *Henry*, Mr. *Benjamin Harrison*, Mr. *Grayson*, Mr. *Bullitt*, Mr. *William Cabell*, Mr. *Selden*, Mr. *Monroe*, Mr. *Bland*, Mr. *Dawson*, Mr. *Strother*, Mr. *John B. Scot*, and Mr. *Roane*, be of the said committee.

Resolved, That this House will to-morrow again resolve itself into a committee of the whole House on the state of the Commonwealth.

1. Printed: *House Journal*, 12–13. The House proceedings for 30 October on calling a second convention (except for the appointment of the committee of thirteen) were printed in the *Virginia Independent Chronicle*, 12 November. They were reprinted in whole or in part (including the resolutions) in nine newspapers by 14 January 1789: Mass. (1), Conn. (1), N.Y. (3), Pa. (1), Md. (1), Va. (1), N.C. (1). (See Mfm:Va. 351 for the House proceedings respecting these resolutions.) The 30 October resolutions alone were reprinted in thirty-seven newspapers by 20 December: N.H. (1), Mass. (5), R.I. (3), Conn. (2), N.Y. (4), N.J. (2), Pa. (10), Del. (1), Md. (3), Va. (3), N.C. (1), Ga. (2); and in the November issue of the Philadelphia *Columbian Magazine*, and the August 1789 issue of the Philadelphia *American Museum*. Brief reports or summaries of the resolutions appeared in nineteen newspapers: N.H. (2), Mass. (5), R.I. (1), Conn. (6), N.Y. (1), N.J. (1), Va. (2), N.C. (1).

2. A manuscript draft of the first two paragraphs of the report is located in the Papers of the House of Delegates, Virginia State Library. On the obverse of this manuscript is the list of delegates appointed to the committee to prepare the letters to Governor Clinton and to the other states. For a facsimile of this document, see Mfm:Va. 352.

House of Delegates Proceedings, Friday, 31 October 1788¹

The order of the day for the House to resolve itself into a committee of the whole House on the state of the Commonwealth, being read;

Ordered, That the same be put off till to-morrow.

And then the House adjourned until to-morrow twelve o'clock.

1. Printed: *House Journal*, 14.

House of Delegates Proceedings, Saturday, 1 November 1788¹

The order of the day, for the House to resolve itself into a committee of the whole House, on the state of the commonwealth, being read:

Ordered, That the same be put off till *Monday* next.

1. Printed: *House Journal*, 16.

House of Delegates Proceedings, Monday, 3 November 1788¹

The House then according to the order of the day, resolved itself into a committee of the whole House on the state of the Commonwealth, and after some time spent therein, Mr. Speaker resumed the chair, and Mr. *Dawson* reported, that the committee had, according to

order again had the state of the Commonwealth under their consideration, and had made some progress therein, but not having time to go through the same had directed him to move the House for leave to sit again.

Resolved, That this House will, to-morrow again resolve itself into a committee of the whole House on the state of the Commonwealth.

1. Printed: *House Journal*, 16.

House of Delegates Proceedings, Tuesday, 4 November 1788 (excerpts)¹

The House then according to the order of the day, resolved itself into a committee of the whole House on the state of the Commonwealth, and after some time spent therein, Mr. Speaker resumed the chair, and Mr. *Dawson* reported, that. . . .

Resolved, That this House will, to-morrow again resolve itself into a committee of the whole House on the state of the Commonwealth.

1. Printed: *House Journal*, 19. The Journals for 5, 6, 7, and 8 November indicate that the House of Delegates “put off” the committee of the whole House until the next day.

House of Delegates Proceedings, Tuesday, 11 November 1788¹

Mr. Briggs reported, from the committee appointed, according to order, an application to the Congress of the United States to call a Convention of the States, to take into consideration the defects of the constitution, and report the necessary amendments; as also, a letter to Governor Clinton, together with a circular letter to the several States on the same subject; which he read in his place, and afterwards delivered in at the clerk’s table, where the same were again read, and on a motion made, ordered to be referred to a committee of the whole House, on Thursday next.

1. Printed: *House Journal*, 37.

House of Delegates Proceedings, Thursday, 13 November 1788 (excerpts)¹

The orders of the day . . . for the House to resolve itself into a committee of the whole House on an application to Congress to call a Convention of the States, to take into consideration the defects of the constitution, and report the necessary amendments; as also, a letter to Governor Clinton, and a circular letter to the several States on the same subject, being read;

Ordered, That the same be put off till to-morrow.

And then the House adjourned till to-morrow morning, 11 o'clock.

1. Printed: *House Journal*, 41.

House of Delegates Proceedings, Friday, 14 November 1788¹

The House, according to the order of the day, resolved itself into a committee of the whole House on an application to Congress to call a Convention of the States, to take into consideration the defects of the constitution, and report the necessary amendments; also, on the draft of a letter to Governor Clinton, and to the several States on the same subject; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Bullitt reported, that the committee had, according to order, had the said application and draft of letters under their consideration, and amended the same; and he read the said application and draft of letters, as amended, in his place, and afterwards delivered them in at the clerk's table, where the same were again read, and are as followeth:

Resolved, that it is the opinion of this committee, That an application ought to be made, in the name and on behalf of the Legislature of this Commonwealth, to the Congress of the United States, in the words following, to wit:

“THE GOOD PEOPLE OF THIS COMMONWEALTH, in Convention assembled, having ratified the constitution submitted to their consideration, this Legislature has, in conformity to that act, and the resolutions of the United States in Congress assembled to them transmitted, thought proper to make the arrangements that were necessary for carrying it into effect. Having thus shewn themselves obedient to the voice of their constituents, all America will find, that so far as it depends on them, that plan of government will be carried into immediate operation.

But the sense of the people of Virginia, would be but in part complied with, and but little regarded, if we went no further. In the very moment of adoption, and coeval with the ratification of the new plan of government, the general voice of the Convention of this State, pointed to objects, no less interesting to the people we represent, and equally entitled to your attention. At the same time, that from motives of affection for our sister States, the Convention yielded their assent to the ratification, they gave the most unequivocal proofs, that they dreaded its operation under the present form.

In acceding to a government under this impression, painful must have been the prospect, had they not derived consolation from a full

expectation of its imperfections being speedily amended. In this resource therefore, they placed their confidence. A confidence, that will continue to support them, whilst they have reason to believe, they have not calculated upon it in vain.

In making known to you the objections of the people of this Commonwealth to the new plan of government, we deem it unnecessary to enter into a particular detail of its defects, which they consider as involving all the great and unalienable rights of freemen: for their sense on this subject we refer you to the proceedings of their late Convention, and the sense of this General Assembly, as expressed in their resolutions of the day of .

We think proper however, to declare that in our opinion, as those objections were not founded in speculative theory, but deduced from principles which have been established by the melancholy example of other nations in different ages—so they never will be removed, until the cause itself shall cease to exist. The sooner therefore the public apprehensions are quieted, and the government is possessed of the confidence of the people, the more salutary will be its operations, and the longer its duration.

The cause of amendments, we consider as a common cause, and since concessions have been made from political motives, which we conceive may endanger the Republic; we trust that a commendable zeal will be shewn for obtaining those provisions, which experience has taught us, are necessary to secure from danger, the unalienable rights of human nature.

The anxiety with which our countrymen press for the accomplishment of this important end, will ill admit of delay. The slow forms of Congressional discussion and recommendation, if indeed they should ever agree to any change, would we fear be less certain of success. Happily for their wishes, the constitution hath presented an alternative, by admitting the submission to a Convention of the States. To this therefore, we resort, as the source from whence they are to derive relief from their present apprehensions. We do therefore, in behalf of our constituents, in the most earnest and solemn manner make this application to Congress, that a Convention be immediately called of deputies from the several States, with full power to take into their consideration the defects of this constitution, that have been suggested by the State Conventions, and report such amendments thereto, as they shall find best suited to promote our common interests, and secure to ourselves and our latest posterity, the great and unalienable rights of mankind.”

DRAFT OF A LETTER TO GOVERNOR CLINTON ON THE SAME SUBJECT.

“SIR,—The letter from the Convention of the State of New York, hath been laid before us, since our present session. The subject which it contemplated, was taken up, and we have the pleasure to inform you of the entire concurrence in sentiment between that honorable body, and the representatives in Senate and Assembly, of the freemen of this Commonwealth. The propriety of immediately calling a Convention of the States, to take into consideration the defects of the constitution was admitted; and in consequence thereof, an application agreed to, to be presented to the Congress, so soon as it shall be convened, for the accomplishment of that important end. We herewith transmit to your excellency, a copy of this application, which we request may be laid before your Assembly at their next meeting. We take occasion to express our most earnest wishes that it may obtain the approbation of New York, and of all other sister States.”

DRAFT OF A LETTER TO THE SEVERAL STATES ON THE SAME SUBJECT.

“The freemen of this Commonwealth in Convention assembled, having at the same time that they ratified the Federal Constitution, expressed a desire that many parts which they considered as exceptionable parts, should be amended, the General Assembly, as well from a sense of duty as a conviction of its defects, have thought proper to take the earliest measures in their power, for the accomplishment of this important object. They have accordingly agreed upon an application, to be presented to the Congress, so soon as it shall be assembled, requesting that honorable body to call a Convention of deputies from the several States, to take the same into their consideration, and report such amendments, as they shall find best calculated to answer the purpose. As we conceive that all the good people of the United States, are equally interested in obtaining those amendments, that have been proposed, we trust that there will be an harmony in their sentiments and measures, upon this very interesting subject. We herewith transmit to you a copy of this application, and take the liberty to subjoin our earnest wishes that it may have your concurrence.”

And the said application and draft of letters, being again severally read at the clerk's table, a motion was made, and the question being put to amend the same, by substituting in lieu thereof, the following form of an application and draft of letters, to wit:

“*The Legislature of Virginia, to the Congress of the United States, send greeting:—*The Convention of the representatives of the good people of this Commonwealth, having, on the 25th day of June last, ratified the constitution or form of government proposed by the Federal Convention

on the 17th of September 1787, and having declared in their act of ratification, that any imperfections which might exist in the said constitution, ought rather to be examined in the mode prescribed therein for obtaining amendments, than by a delay, with a hope of obtaining previous amendments, to bring the Union into danger; and in order to relieve the apprehensions of those who might be solicitous for amendments, having resolved that whatever amendments might be deemed necessary, ought to be recommended to the consideration of Congress, which should first assemble under the said constitution, to be acted upon according to the mode prescribed in the fifth article thereof. And on the 27th day of the same month of June agreed to certain amendments to the said constitution, which were transmitted, together with the ratification of the Federal Constitution, to the United States in Congress assembled; which amendments the said Convention did, in the name and behalf of the people of this Commonwealth, enjoin it upon their representatives in Congress, to exert all their influence, and use all legal and reasonable methods to obtain a ratification of, in the manner provided by the said constitution. And in all Congressional laws to be passed in the mean time, to conform to the spirit of the said amendments as far as the said constitution would admit.

This Legislature fully concurring in sentiment with the said Convention, and solicitous to promote the salutary measures by them recommended, do, in consideration of the unanimity with which the said amendments were agreed to, and a just sense of their utility, earnestly call upon the Congress of the United States, to take the said amendments under their immediate consideration, and also those which may have been submitted by the Conventions of other States, and to act thereupon in the manner prescribed by the 5th article of the Federal Constitution, either by proposing the necessary alterations to the consideration of the States, or by calling a Convention to deliberate on the subject, as to them shall seem most likely to promote the peace and general good of the Union: We pray that Almighty God in his goodness and wisdom, will direct your councils to such measures, as will establish our lasting peace and welfare, and secure to our latest posterity the blessings of freedom; and that he will always have you in his holy keeping.”

DRAFT OF A LETTER TO THE SEVERAL STATES ON THE SAME SUBJECT.

“We beg leave to submit to your consideration, a copy of our answer to the circular letter from the Convention of our sister State of New York, and also the copy of an address, which we think it our duty to make to the Congress at their first meeting; We flatter ourselves that

you will not hesitate in making a similar application, the object being to establish our rights and liberties on the most immutable basis: May God have you in his holy keeping.”

It passed in the negative. Ayes, 50. Noes, 72.

The ayes and noes being called for by Mr. Richard Bland Lee, seconded by Mr. Corbin;

The names of those who voted in the affirmative are, the Honorable Mr. Speaker, Wilson Nicholas, Francis Walker, Zachariah Johnston, John Tate, Philip Pendleton, Joseph Swearingen, Martin M’Ferrau, Lawrence Battaile, David Stuart, William Stuart, John Shearman Woodcock, Alexander White, Thomas Smith, John Page, George Clendennin, Henry Banks, Daniel Fisher, Hezekiah Davison, William Lowther, William Heath, William Norvell, Robert Breckenridge, Daniel Broadhead, Daniel Fitzhugh, Bernard Moore, James Wallace Ball, Levin Powell, Richard Bland Lee, William Overton Callis, Richard Morris, James Knox, Samuel Taylor, Francis Corbin, Ralph Wormeley, Charles Martin, Thomas Laidley, Francis Preston, John Stringer, William Ronald, Edward Carlington, Jonathan Parsons, John Elliott, Walker Tomlin, George Lee Turberville, Francis Kertley, George Baxter, Nathaniel Wilkinson, John Allen and William A. Washington.

The names of those who voted in the negative are, Jabez Pitt, Davis Booker, William Cabell, John Trigg, Thomas Leftwich, James Barnett, Henry Lee, Notlay Conn, Binns Jones, Thomas Anderson, John Clarke, John Hunter, Anthony New, Thomas Bedford, Henry Southall, Benjamin Harrison, Matthew Cheatham, French Strother, Joel Early, John Woodson, George Pegram, Miles King, George Booker, James Upshaw, John M’Dowell, James Trotter, Elias Edmonds, John Thompson, John Early, Joshua Rentfro, John Guerrant, Batte Peterson, Nathaniel Hunt, Samuel Dew, John Garland, Miles Selden, Thomas Cooper, Abraham Penn, John Pierce, Francis Boykin, Benjamin Eley, Anderson Scott, John Roane, Richard Johnson, Green Clay, Thomas Kennedy, Alexander Robinson, Richard Kennon, Willis Riddick, Burwell Bassett, William M’Clung, Henry Guy, William Nutt, Benjamin Lankford, Constant Perkins, Patrick Henry, Theodorick Bland, Cuthbert Bullitt, Thomas Kemp, William M’Kee, Charles Campbell, Andrew Cowen, Thomas Carter, James Monroe, Lemuel Cocke, Thomas Edmunds, John S. Langhorne, Samuel Edmiston, John Lowry, Robert Shield and William Nelson.

And then the main question being put, that the House do agree with the committee of the whole House, in the application and draft of letters by them reported;

It was resolved in the affirmative.

Ordered, That Mr. Bullitt do carry the said application and draft of letters to the Senate, and desire their concurrence.

1. Printed: *House Journal*, 42–44. Excerpts were printed in the *Virginia Independent Chronicle*, 26 November, and reprinted twenty-eight times by 15 January 1789: Vt. (1), Mass. (1), R.I. (1), Conn. (6), N.Y. (5), Pa. (8), Md. (2), Va. (4).

Senate Proceedings, Monday, 17 November 1788 (excerpts)¹

A message from the House of Delegates by Mr. Bullitt:

MR. SPEAKER,—The House of Delegates . . . have agreed to several resolutions, on behalf of the Legislature of this Commonwealth, to the Congress of the United States, concerning a new Convention; the form of a letter to Governor Clinton; and a draught of a circular letter to the other States, on the same subject; to which they desire the concurrence of the Senate. And he delivered in the same, and then withdrew. . . .

The said resolutions were read the first time; and ordered to be committed to a committee of the whole House, to-morrow.

1. *Journal of the Senate of the Commonwealth of Virginia . . .* (Richmond, 1789) (Evans 22227), 27. Hereafter cited as *Senate Journal*.

Senate Proceedings, Tuesday, 18 November 1788¹

The House, according to the order of the day, resolved itself into a committee of the whole House, on the resolutions of the House of Delegates, on behalf of the Legislature of this Commonwealth to the Congress of the United States, concerning a new Convention; the form of a letter to Governor Clinton; and the draught of a letter to the other States; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Pride reported, that the committee had, according to order, had the said resolutions under their consideration, and gone through the same, and made several amendments thereto, which he was ready to report, whenever the House should be pleased to receive the same.

Ordered, That the said report do lie on the table.

1. Printed: *Senate Journal*, 29.

Senate Proceedings, Wednesday, 19 November 1788¹

Mr. Pride, according to order, reported the amendments agreed to yesterday, by the committee of the whole House, to the resolutions of the House of Delegates, on behalf of the Legislature of this Common-

wealth, to the Congress of the United States, concerning a new Convention; the form of a letter to Governor Clinton; and the draught of a circular letter to the other States; which he read in his place, and afterwards delivered in at the clerk's table, where they were again twice read, amended, and agreed to by the House.

The said resolutions, with the amendments, were read the second time; and on the question thereupon being put, agreed to by the House.

Ordered, That Mr. Lee do acquaint the House of Delegates therewith, and desire their concurrence to the amendments.

1. Printed: *Senate Journal*, 31. A one-page manuscript with four minor amendments to the resolutions of the House of Delegates is in the Papers of the House of Delegates, Virginia State Library. The document is signed by H. Brooke, the Senate clerk, and agreed to, dated 20 November, and signed by John Beckley, clerk of the House of Delegates.

House of Delegates Proceedings, Wednesday, 19 November 1788 (excerpts)¹

A message from the Senate by Mr. Lee:

MR. SPEAKER,—The Senate have . . . agreed to the resolutions, containing an application to the Congress of the United States, to call a Convention for proposing amendments to the constitution of government of the United States; also, drafts of letters to Governor Clinton and the several States, on the same subject, with several amendments; to which they desire the concurrence of this House. And then he withdrew.

1. Printed: *House Journal*, 53.

House of Delegates Proceedings, Thursday, 20 November 1788¹

The House proceeded to consider the amendments of the Senate to the resolutions, containing an application to Congress to call a Convention of the States, to take into consideration the amendments proposed to the constitution of government of the United States; also, the drafts of a letter to Governor Clinton, and a circular letter to the several States on the same subject; and the same being twice read, were agreed to.

Ordered, That Mr. Briggs do acquaint the Senate therewith.

1. Printed: *House Journal*, 55.

Senate Proceedings, Thursday, 20 November 1788¹

A message from the House of Delegates by Mr. Briggs:

MR. SPEAKER,—The House of Delegates have agreed to the Senate's amendments to the resolutions of the House of Delegates, on behalf

of the Legislature of this Commonwealth, concerning a new Convention; the form of a letter to Governor Clinton; and a draught of a circular letter to the other States. And then he withdrew.

1. Printed: *Senate Journal*, 32.

Virginia Legislature Application to Congress, 20 November 1788¹

VIRGINIA, *to wit*:

IN GENERAL ASSEMBLY,

FRIDAY, *the 20th* NOVEMBER, 1788.

RESOLVED, That an application be made, in the name and on behalf of the Legislature of this Commonwealth, to the CONGRESS of the UNITED STATES, in the words following, to wit:

“The GOOD PEOPLE of this COMMONWEALTH in CONVENTION ASSEMBLED, having ratified the Constitution submitted to their consideration, this Legislature has, in conformity to that act, and the resolutions of the UNITED STATES in Congress assembled, to them transmitted, thought proper to make the arrangements that were necessary, for carrying it into effect—Having thus shewn themselves obedient to the voice of their constituents, all America will find, that so far as it depended on them, that PLAN of GOVERNMENT will be carried into immediate operation. But the sense of the PEOPLE of VIRGINIA would be but in part complied with, and but little regarded, if we went no farther. In the very moment of adoption, and coeval with the ratification of the new plan of government, the general voice of the Convention of this state, pointed to objects, no less interesting to the people we represent, and equally intitled to our attention. At the same time that from motives of affection to our sister states, the Convention yielded their assent to the ratification, they gave the most unequivocal proofs, that they dreaded its operation under the present form. In acceding to the government under this impression, painful must have been the prospect, had they not derived consolation from a full expectation, of its imperfections being speedily amended. In this resource therefore, they placed their confidence—a confidence, that will continue to support them, whilst they have reason to believe, they have not calculated upon it in vain. In making known to you, the objections of the people of this Commonwealth, to the new plan of government, we deem it unnecessary to enter into a particular detail of its defects, which they consider as involving all the great and unalienable rights of Freeman: For their sense on this subject, we refer you to the proceedings of their late Convention, and the sense of the House of Delegates, as expressed in their resolutions of the 30th day of October, 1788. We think proper

however to declare, that in our opinion, as those objections were not founded in speculative theory, but deduced from principles, which have been established, by the melancholy example of other nations in different ages—So they will never be removed, until the cause itself shall cease to exist. The sooner therefore the public apprehensions are quieted, and the government is possessed of the confidence of the people, the more salutary will be its operations, and the longer its duration. The cause of amendments, we consider as a common cause, and since concessions have been made from political motives, which we conceive may endanger the republic; we trust that a commendable zeal will be shewn for obtaining those provisions, which experience has taught us, are necessary to secure from danger, the unalienable rights of Human Nature. The anxiety with which our Countrymen press for the accomplishment of this important end, will ill admit of delay. The slow forms of Congressional discussion and recommendation, if indeed they should ever agree to any change, would we fear be less certain of success. Happily for their wishes, the Constitution hath presented an alternative, by admitting the submission to a Convention of the states. To this therefore we resort, as the source from whence they are to derive relief from their present apprehensions. We do therefore, in behalf of our Constituents, in the most earnest and solemn manner, make this application to Congress, that a Convention be immediately called, of deputies from the several states, with full power to take into their consideration, the defects of this Constitution that have been suggested by the state Conventions, and report such amendments thereto, as they shall find best suited to promote our common interests, and secure to ourselves, and our latest posterity, the great and unalienable rights of Mankind.”

Signed by Order and on Behalf of the General Assembly.

John Jones SS
Thos Mathews S.H.D

1. The application to Congress has been transcribed from the signed printed broadside enclosed in Governor Beverley Randolph's 2 December letter to the state executives, now in the Broadside Collection of the Massachusetts Historical Society (Evans 45395). The engrossed parchment copy sent to the state's newly elected representatives to the first federal Congress has not been located. The application can also be found in the Journal of the U.S. House of Representatives, 5 May 1789, and in the journal of the Virginia House of Delegates, 14 November 1788. The latter proceedings were reprinted in whole or in part in the *Virginia Independent Chronicle*, 26 November; *Virginia Journal*, 4 December; *Virginia Herald*, 4 December; *Winchester Virginia Gazette*, 10 December; and *Virginia Centinel*, 10 December; and in thirty-two out-of-state newspapers by 15 January 1789: Vt. (1), N.H. (1), Mass. (8), R.I. (2), Conn. (5), N.Y. (5), Pa. (8), Md. (2), and in the March 1789 issue of the *Philadelphia American Museum*.

Virginia Legislature to Governor George Clinton, 20 November 1788¹

Virginia, to wit:

In GENERAL ASSEMBLY, Friday, the 20th November, 1788.

SIR, The letter from the Convention of the State of New-York hath been laid before us, since our present session. The subject which it contemplated was taken up, and we have the pleasure to inform you of the entire concurrence in sentiment between that Honorable Body, and the Representatives, in Senate and Assembly, of the *freemen* of this *Commonwealth*. The propriety of immediately calling a Convention of the States, to take into consideration the defects of the Constitution, was admitted, and, in consequence thereof, an application agreed to, to be presented to the Congress, so soon as it shall be convened, for the accomplishment of that important end. We herewith transmit to your Excellency a copy of this application, which we request may be laid before your Assembly at their next meeting. We take occasion to express our most earnest wishes, that it may obtain the approbation of *New-York*, and of all our sister States.

Signed by order and in behalf of the General Assembly,

JOHN JONES, S. S.

THO's. MATHEWS, S. H. D.

1. The letter to Governor George Clinton has been transcribed from the *Journal of the Assembly of the State of New-York* (Albany, 1789) (Evans 22008), 25.

Virginia Legislature to the State Executives, 20 November 1788¹

VIRGINIA, to wit:

IN GENERAL ASSEMBLY,

FRIDAY, the 20th NOVEMBER, 1788.

[“]SIR, The FREEMEN of this COMMONWEALTH in CONVENTION ASSEMBLED, having, at the same time that they ratified the FEDERAL CONSTITUTION, expressed a desire that many parts which they considered as exceptionable should be amended, the General Assembly, as well from a sense of their duty, as a Conviction of its defects, have thought proper to take the earliest measures in their power, for the accomplishment of this important object. They have accordingly agreed upon an application, to be presented to the Congress, so soon as it shall be assembled, requesting that Honorable Body, to call a Convention of deputies from the several States, to take the same into their consideration, and report such amendments, as they shall find best calculated to answer the purpose. As we conceive that all the good people of the United States, are equally interested in obtaining those

amendments, that have been proposed, we trust that there will be an harmony in their sentiments and measures, upon this very interesting subject. We herewith transmit to you a copy of this application, and take the liberty to subjoin our earnest wishes that it may have your concurrence.”

Signed by Order and on Behalf of the General Assembly.

John Jones SS
Thos Mathews S.H.D

1. This letter has been transcribed from the signed printed broadside which was sent to the state executives and which is now in the Library of Congress (Evans 45396).

House of Delegates Proceedings, Tuesday, 25 November 1788¹

A motion was made, that the House do come to the following resolutions:

Resolved, That the application agreed to by the General Assembly, to be made to the Congress of the United States, be fairly engrossed upon parchment, signed by the Speakers of both Houses, and transmitted by the Executive to the new Congress as soon as they shall assemble.

Resolved, That copies of the letter to Governor Clinton, and of the circular letter to the several States, enclosing copies of the foregoing application, be made out, signed by the Speakers of both Houses, and transmitted by the Executive, without delay.

And the said resolutions being severally again twice read were, on the question put thereupon, agreed to by the House.

Ordered, That Mr. Bullitt do carry the said resolutions to the Senate, and desire their concurrence.

1. Printed: *House Journal*, 66.

Senate Proceedings, Thursday, 27 November 1788¹

A message from the House of Delegates by Mr. Bullitt:

MR. SPEAKER,—The House of Delegates have agreed to several resolutions, respecting the application agreed to by the General Assembly, to be made to Congress, and the copies of the letter to Governor Clinton, and the circular letter to the other States; to which they desire the concurrence of the Senate. And he delivered in the same, and then withdrew.

The said resolutions were twice read; and on the question thereupon being put, agreed to by the House.

Ordered, That Mr. Anderson do acquaint the House of Delegates therewith.

1. Printed: *Senate Journal*, 41.

House of Delegates Proceedings, Thursday, 27 November 1788¹

A message from the Senate by Mr. Anderson:

MR. SPEAKER,—The Senate have agreed to the resolution for forwarding the application to Congress, as also the letter to Governor Clinton, and the circular letter to the several States. And then he withdrew.

1. Printed: *House Journal*, 70.

Executive Council Journal, Tuesday, 2 December 1788 (excerpts)¹

Present The Lieutenant Governor [Beverley Randolph]

Mr. Wood,

Mr. Jones

Mr. McClurg,

Mr. Heth &

Mr. Goode

. . . The Lieutenant Governor laid before the board a resolution of the General Assembly requesting the Executive to transmit without delay Copies of the letter to Governor Clinton & of the Circular Letter to the several States inclosing copies of the application agreed to by the General Assembly, to be made to the Congress of the united States—

Where upon it is advised that the said Dispatches be transmitted to the several States by post.—. . .

All which matters so advised, the Lieutenant Governor orders accordingly.—

James Wood
James McClurg
Jos. Jones
Will. Heth
Robt. Goode

1. MS, Executive Council Journal, 501–2, Vi. Printed: Sandra Gioia Treadway, ed., *Journals of the Council of State of Virginia*, Vol. V (Richmond, 1982), 11–12.

**Governor Beverley Randolph to the State Executives, Richmond
2 December 1788¹**

In Council

I do myself the honour to inclose to your Excellency a letter from the General Assembly of this State, inclosing a copy of the Application agreed to by that honourable body to be made to the Congress of the United States, which I request the favour of you to lay before the Legislature of your State as early as possible.

I have the honour to be Sir, with great respect

1. RC, Misc. Leg. Papers, Senate Files, #850, M-Ar. The letter was docketed: "Letter from the Legislature of Virginia respecting the New System of Government/Recd. 24th. Decemr. 1788." The transcription is taken from the letter addressed to "His Excellency The Governor of Massachusetts."

**Governor Beverley Randolph to Virginia's Delegates to Congress
Richmond, 15 February 1789 (excerpts)¹**

Gentlemen,

In pursuance of the directions of the General Assembly I do myself the honour to inclose to you . . . the application of the legislature of this state to the Congress of the United States for a revision of the new constitution. . . .

1. FC, Executive Letter Book, Virginia State Library.

**Massachusetts' Response to Virginia's Call for a Second
Constitutional Convention**

*Governor John Hancock's Message to the Massachusetts General Court
Boston, 8 January 1789 (excerpt)¹*

Gentlemen of the Senate and Gentlemen of the House of Representatives

. . . I have directed the Secretary to lay before you, a letter written by the General Assembly of *Virginia*, enclosed by his Excellency the Governor of that State, in which was also enclosed a resolution of instructions to their Representatives in Congress; which I also communicate to you in the same manner.—These are all the public dispatches I have received, and are all expressly upon the subject of calling a general Convention, for the purpose of making alterations in the Constitution of Government agreed upon by *eleven* of the *thirteen* States.—I communicated to you in the last session, a letter from the Convention of the State of *New-York*, upon the same subject; the States of *Virginia* and *New-York*, are very important members of the Union, and will always receive great friendship and sincere regard from this Commonwealth. The Gentlemen who are in government in either of them, are very respectable for their wisdom and patriotism, and can never be capable of introducing a measure which they do not conceive will tend to the interest of the United States; nevertheless I am constrained to observe, that in my opinion, all the purposes which they wish to effect, will be better accomplished by recommendations from the Congress to the Legislatures of the States. A Convention will be expensive, if not dangerous to the interest of the nation. But it rests with you, Gentlemen, to give such instructions as you think will promote those great and desirable objects, the peace and happiness of the people.

You will however permit me to remind you, that when the system of General Government was ratified by this State, the Convention expressed in the strongest terms, their opinion “that certain amendments and alterations in the said Constitution, would remove the fears, and quiet the apprehensions of many of the good people of this Commonwealth, and more effectually guard against an undue administration of the Federal Government, and that the same Convention did therefore, in the name and behalf of the good people of the Commonwealth, enjoin it upon their Representatives in Congress, at all times, until the alterations and provisions, (proposed by the Convention) should have been considered agreeably to the fifth article of the Constitution, to exert all their influence, and to use all reasonable and legal methods to obtain a ratification of the said alterations and provisions, in such manner as is provided in the said article.”

These injunctions will be considered by the Senate and Representatives of the Commonwealth, as sacredly binding upon them; their faithfulness and prudence in this respect will quiet the fears of those of the community, who have hitherto rested satisfied with those solemn assurances. I was very sincere in the part I took upon this important subject in the Convention. I disclaim all other than open undisguised politics, and can assure you, that although I would by all means avoid another general Convention, yet I am no less in favour of amendments, than I was when I held a seat in the Convention of this State.—Your resolutions on this point in the present session, upon the communications of our sister States, will undoubtedly express the minds of our constituents, quiet the apprehensions of the people, and give assurances to the States which have written to you on the subject, as well as to those which have not as yet accepted the general Government, that although this Commonwealth are zealous for an efficient general Government, yet we will not fail in our endeavours, to provide such checks and barriers as are necessary to the freedom and security of each individual in the great Republic.

1. *Resolves of the General Court of the Commonwealth of Massachusetts . . .* (Boston, 1789) (Evans 21951), 75–76. The message was printed in full in the *Massachusetts Centinel*, 10 January, and reprinted in full eight times and in part another twenty times by 12 February: N.H. (1), Mass. (9), R.I. (3), Conn. (3), N.Y. (2), Pa. (5), Md. (2), Va. (2), Ga. (1).

*Newspaper Report of Massachusetts House Proceedings, 22 January 1789*¹

The first part of the day was principally taken up in attending to private petitions. The House next took into consideration the report of a Joint Committee of an answer to the Governour’s Message. A con-

siderable debate ensued on the subject of an amendment proposed by a Committee of the House, with regard to amending the Constitution. This measure was opposed with great earnestness by Mr. Dawes—who said it was a doubt in his whether it came within the commission of the state Convention to enjoin it on the members of Congress from this state to pursue the proposition for the adoption of Amendments. The same sentiment was advanced by Mr. Bowdoin, and others.

The amendment was warmly advocated by General Health, and by Doctor Jarvis, in a lengthy and nervous speech—likewise by General Thompson, who said that he zealously believed his Excellency acted sentimentally about the proposed amendments in the Convention, as also did many others; but that they were taken in as Isaac was, when Jacob, by his mother's advice, stole the blessing; but the *old woman and the boy* were both cursed for it.

Major Nasson rise and replied particularly to the arguments adduced by Mr. Bowdoin. Mr. Widgery said he thought the House had been out of order a good part of the debate, and that he should say but little, as he thought there was no doubt but the House would accept the amendment proposed to the report, as it was but a complaisant reply to his Excellency.

The question was then put, and the amendment accepted by a large majority.

1. Printed: Boston *Herald of Freedom*, 23 January.

*Massachusetts General Court's Response to Governor John Hancock's Message Boston, 3 February 1789 (excerpts)*¹

ANSWER TO GOVERNOUR'S MESSAGE.

(The following answer of the Legislature to the Governour's Message, communicated at the opening of the session, was delivered to his Excellency on Wednesday last, by a joint Committee, appointed for that purpose.)

MAY IT PLEASE YOUR EXCELLENCY,

The two branches of the Legislature, in answer to your Excellency's message of the 8th ult. communicated by the Secretary, have most sincerely to lament, that by your Excellency's indisposition they have been deprived of receiving your communications in person.

They are very sensible of the urgent and important calls of the publick, on your Excellency's time and talents, and most fervently wish, that you may soon be restored to firm and established health.

To a want of representation of the States in Congress, they impute your Excellency's not having received any communications from that honourable body since the adjournment.

While they have had frequent reason to deplore the inability of Congress, to compel an attendance of Members, necessary to conduct the affairs of the Union, they are happy in observing, that the Constitution of the United States, makes ample provision for this important defect in the articles of Confederation. . . .

With high satisfaction, the Legislature anticipate the early operation of a government, over the United States, constitutionally vested with powers to encourage agriculture promote the useful arts, regulate and the cherish commerce, and effectually to establish on a broad and permanent basis, the credit, dignity and real independence of our country.

Under a wise administration of this government, supported by the industry, frugality and patriotism of her citizens, America may look forward, to the advancement of her national happiness, and the establishment of her national character, on just and durable grounds.

According to your Excellency's direction, the Secretary has laid before the Legislature, a letter from the Governour of Virginia—enclosing one written by the General Assembly of that State; also a resolution of instructions to their Representatives in Congress, on the subject of calling a general Convention, for the purpose of making alterations in the Constitution of government of the United States.

These papers, together with the letter from the Convention of the State of New-York on the same subject, have been attentively considered, and though this Commonwealth will embrace every opportunity of evidencing their great friendship, and sincere regard, for these important Members of the Union, the Legislature perfectly concur in opinion with your Excellency, that the calling a general Convention at this period would be expensive, if not dangerous to the Union.

But in thus giving our sentiments on this important subject, we are by no means unmindful, that the Convention of this Commonwealth have given their opinion in the resolution ratifying the Federal Constitution, that certain alterations and amendments, would remove the fears, and quiet the apprehensions of many of the good people of this Commonwealth, and more effectually guard against an undue administration of the Federal Government: And have solemnly enjoined upon the Representatives of this State in Congress, at all times, until the alterations and provisions aforesaid have been considered, agreeably to the fifth article of said Constitution, to exert all their influence, and to use all reasonable and legal methods to obtain a ratification of the said alterations and provisions referred to in such manner as is provided in the aforesaid article.

Under this injunction we have full confidence, that the Representatives of this Commonwealth, will not fail to exert their utmost influ-

ence, and use all reasonable and legal measures, that the alterations and provisions aforesaid, be duly considered in Congress, and recommended by that Hon. Body, agreeably to the true spirit and letter of the aforesaid resolution.

1. Printed: *Massachusetts Centinel*, 7 February. Reprinted in full on 12 February in the Portland, Maine, *Cumberland Gazette*, Providence *United States Chronicle*, and Worcester, Mass., *American Herald*. Excerpts of the response dealing solely with the Virginia and New York call for a second constitutional convention were reprinted in seven other Massachusetts newspapers by 20 February. Excerpts were also printed in the *New York Daily Advertiser*, 16 February, the *New York Daily Gazette*, 17 February; and the *New York Journal*, 19 February. The *New York Journal* excerpt was preceded by a statement signed by "A Customer." "The Editor of the Daily Advertiser, in his paper of the 16th instant, has published some extracts from the answer of the legislature of the state of Massachusetts to a message from the Governor; and as the obvious tendency of those extracts is to serve the purposes of a party, by inducing the citizens of this state to believe that the legislature of Massachusetts, are against amendments to the new constitution; I request you will please to insert in your next paper the above-mentioned extracts, as well as the remaining part of the answer; by which it will evidently appear, that although the legislature did not approve of calling another convention, yet they consider the amendments, proposed by their late convention, as highly requisite to the safety and happiness of the citizens of that state."

A manuscript copy of the response is in the Resolves, 1788, chap. 59-A, Secretary of the Commonwealth, M-Ar.

Massachusetts General Court: Draft Resolutions, 17 February 1789¹

Whereas his excellency the Governor has communicated certain letters with their several enclosures from the States of *Virginia & New York* on the subject of amendments by them respectively proposed, together with their proposition for a new Convention to revise the Constitution lately adopted as the Federal Government of these United States; which have been maturely considered by the Legislature of this Commonwealth; Therefore;

Resolved, that the Governor, be & he hereby is requested, to inform the States of *Virginia & New York*, that altho' the Legislature of this Commonwealth are fully sensible of the attention which is due to States so respectable for their, wisdom, opulence, & numbers; yet they cannot unite in the proposition for another General Convention at this period, as in their opinion it would be expensive if not dangerous to the Union. —

And it is submitted to the consideration of these States, whether the plan proposed by the Convention of this Commonwealth, would not be exposed to less inconvenience, & perhaps be equally as effectual as the other; for the Legislature of this Commonwealth are apprehensive that a Convention called at this Juncture, would *at least*, inevitably delay

the happy effects which many have been induced to expect, will be naturally incident to the operation of the General government in its present form; but they can at present perceive no difficulty in the alterations & amendments, which have been proposed to quiet the minds of many of our good citizens, & to guard against an undue administration of the Federal Government; being duly considered & recommended by Congress agreeably to the fifth article of the Constitution.

The Legislature are by no means unmindful of the nature & principles of the provisions & alterations aforesaid, nor of the solemn instructions which the representatives of this State are under to exert all their influence, & to use all reasonable measures, to call the early attention of Congress to these important objects; & they have full confidence, that not only these salutary purposes will be attained, but that the utmost consideration will be shewn to such propositions of our sister States, as have a tendency to establish peace, liberty & justice, and to promote the general welfare—

1. MS, Resolves, 1788, chap. 121, Secretary of the Commonwealth, M-Ar.

Massachusetts General Court: Resolution on Amendments 17 February 1789¹

Resolve on the subject of Amendments, and the letters from *Virginia* and *New-York*, February 17, 1789.

Whereas His Excellency the Governour has communicated certain letters from the Governours of *Virginia* and *New-York*, with their respective inclosures on the subject of calling a Convention for the amending the Constitution of the United States; and whereas the answer to His Excellency's Message at the beginning of the present session of the General Court, is expressive of the opinion of the Legislature on that subject.

Be it therefore *Resolved*, That His Excellency the Governour, be, and he is hereby requested to write to the Governours of *Virginia* and *New-York*, in answer to their letters, and to express the sentiments of the Legislature, contained in the reply to His Excellency's Message aforesaid, as the opinion of the Legislature on that subject.

1. *Resolves of the General Court of the Commonwealth of Massachusetts . . .* (Boston, 1789) (Evans 21951), Chapter CXXI, p. 109.

*Governor John Hancock to Virginia Governor Beverley Randolph
Boston, 21 February 1789¹*

Your Excellency's Letter with the inclosures upon the subject of calling a general Convention for the purposes of making alterations in the

Constitution of Government of the United States, I have had the honor of receiving & which I immediately communicated to the two branches of the Legislature accompanied with a Message expressing my sentiments upon the subject which they have attentively considered, & agreeably to their request I have the honor of communicating their sentiments in reply, & though this Commonwealth will embrace every opportunity of evidencing their friendship & sincere regard to your State which they consider as an important Member of the Union, yet the Legislature concurred with me in Opinion that the calling a general Convention at this period would be attended with great expence, if not dangerous to the Union; but upon giving their sentiments on this important subject they were by no means unmindful that the Convention of this Commonwealth have given their opinion in the resolution ratifying the Federal Constitution, that certain alterations & amendments would remove the fears & quiet the apprehensions of many of the good People & more effectually guard against an undue administration of the Federal Government, & have solemnly enjoined upon the Representatives of this State in Congress at all times, until the alterations & provisions aforesaid have been considered agreeably to the fifth article of said Constitution, to exert all their influence & to use all reasonable & legal methods to obtain a ratification of the said alterations & provisions referred to, in such manner as is provided in the aforesaid Article; under this injunction they have full confidence that the Representatives of this Commonwealth will not fail to exert their utmost influence & use all reasonable & legal measures that the alterations & provisions aforesaid be duly considered in Congress, & recommended by that Body agreeably to the true Spirit & Letter of the aforesaid Resolution—
I am, Sir, With great Esteem & Respect

1. RC, Executive Communications, Virginia State Library. Governor Hancock sent an identical letter, also dated 21 February 1789, to New York Governor George Clinton (Huntington Library, San Marino, Calif.).

Pennsylvania's Response to Virginia's Call for a Second Constitutional Convention

*Governor Beverley Randolph of Virginia to President Thomas Mifflin
Richmond, Va., In Council, 2 December 1788¹*

I do myself the honour to inclose to your Excellency a letter from the General Assembly of this state, inclosing a copy of the Application agreed to by that honourable body to be made to the Congress of the United States, which I request the favour of you to lay before the legislature of your State as early as possible.

1. FC, Executive Letter Book, Virginia State Library. Randolph's letter enclosed the Virginia legislature's resolution of 20 November 1788 calling on Congress to call a second constitutional convention to amend the new Constitution and a letter also dated 20 November 1788 from the Virginia legislature explaining the motivation of the Virginia General Assembly. All of these documents and the Pennsylvania Assembly's roll call refusing to send these documents to a committee were printed in the Philadelphia *Federal Gazette*, 11 February 1789, and *Brunswick Gazette*, 24 February.

*Pennsylvania Supreme Executive Council Message to the Pennsylvania General Assembly, Council Chambers, Philadelphia, 6 February 1789 (excerpts)*¹

The following draft of a Message to the General Assembly was laid before Council—read and approved . . . [enclosing] A letter from his Excellency Beverly Randolph Esquire inclosing a letter from the Speakers of the Senate and General Assembly of the state of Virginia, with a Copy of the application agreed to by the General Assembly to be made to the Congress of the United States

[Also included among the papers transmitted was a resolution of 20 November 1788 from the Virginia General Assembly requesting Congress to call a constitutional convention to consider amendments to the Constitution.]

1. MS, RG 27, Records of the Supreme Executive Council/Secretary of the S.E.C./Minute Book (rough), Vol. Nov. 4, 1788–April 17, 1789, P-Ar.

*Pennsylvania Assembly Proceedings, Friday, 6 February 1789*¹

The Secretary of Council attending at the door, was introduced, and presented to the chair a message from his Excellency the President and the Supreme Executive Council, which was read, as follow, *viz.*

[Here appears the Supreme Executive Council's message of 6 February and its enclosures.]

1. Printed: *Minutes of the Thirteenth General Assembly of the Commonwealth of Pennsylvania in Their Third Session* (Philadelphia, 1789) (Evans 45555), 54. Hereafter cited as *Assembly Journal*.

*Pennsylvania Assembly Proceedings, Saturday, 7 February 1789 (excerpts)*¹

The letter from his Excellency Beverly Randolph, Esquire, and the inclosures, were read the second time, as follows, *viz.*

[Governor Governor Randolph's letter and the Virginia General Assembly's resolution of 20 November 1788 were entered into the Pennsylvania Assembly's Journal.]

. . . On the question,—“*Shall the same be referred to a committee?*”—the Yeas and Nays were called by Mr. *M'Lene* and Mr. *Hoge*, and were as follow, *viz.*

YEAS.

- | | |
|-------------------|-------------------------|
| 1 David Mitchell, | 9 Alexander Wright, |
| 2 Thomas Kennedy, | 10 John Gilchreest, |
| 3 Thomas Beale, | 11 Theophilus Phillips, |
| 4 Jonathan Hoge, | 12 James M'Lene, |
| 5 John Piper, | 13 James Johnson, |
| 6 William Todd, | 14 Jacob Miley, |
| 7 James Marshall, | 15 Adam Orth. |
| 8 James Allison, | |

NAYS.

- | | |
|--------------------------|------------------------|
| 1 George Clymer, | 20 Alexander Lowrey, |
| 2 Thomas Fitzsimons, | 21 James Clemson, |
| 3 Jacob Hiltzheimer, | 22 John Hopkins, |
| 4 Lawrence Sickle, | 23 James Cunningham, |
| 5 William Lewis, | 24 Jacob Erb, |
| 6 William M'Pherson, | 25 Thomas Lilley, |
| 7 John Salter, | 26 Joseph Sands, |
| 8 George Logan, | 27 Daniel Broadhead, |
| 9 William Robinson, jun. | 28 Peter Trexler, jun. |
| 10 Gerardus Wynkoop, | 29 Peter Ealer, |
| 11 John Chapman, | 30 Conrad Ibrie, |
| 12 Valentine Upp, | 31 Stephen Balliot, |
| 13 Samuel Foulke, | 32 Jacob Saylor, |
| 14 Richard Thomas, | 33 John Nevil, |
| 15 James Moore, | 34 Jacob Reiff, |
| 16 Mark Wilcox, | 35 Robert Lollar, |
| 17 John M'Dowell, | 36 Peter Richards, |
| 18 Caleb James, | 37 Jonathan Roberts, |
| 19 Richard Downing, jun. | 38 Obadiah Gore. |

So it was carried in the negative.

1. Printed: *Assembly Journal*, 58–61. The Assembly proceedings were also printed in the New Jersey *Brunswick Gazette*, 24 February, and Pennsylvania *Carlisle Gazette*, 18 March.

*Pennsylvania Assembly Proceedings, Tuesday, 3 March 1789*¹

The letter from his Excellency *Beverly Randolph*, Esquire, with its inclosures, read *February* 7th last, were again read: Whereupon

A motion was made by Mr. *Clymer*, seconded by Mr. *Robinson*, in the following words, *viz.*

The House, taking into consideration the letter from the Governor of *Virginia* to the President of this state, and its several enclosures, transmitted by the Supreme Executive Council in their message of the 6th of *February* last.

Resolved, That his Excellency the President be requested to assure his Excellency Governor *Randolph*, that, accustomed to sentiments of the highest respect and deference for the Legislature of *Virginia*, it must ever be painful to the House [i.e., the Pennsylvania Assembly] when obliged to dissent from the opinion of that Assembly [i.e., the Virginia legislature] upon any point of common concern to the two states, as members of the union; and particularly in a measure of such importance as the one now proposed, the calling of a Convention of the states for amending the fœderal constitution, the necessity of which they are not able to discern, though it is so apparent to, and so earnestly insisted on, by that Legislature.

⟨That though it is possible this constitution may not be a system exempt, in all its parts, from error, yet the House do not perceive it wanting in any of those fundamental principles, which are calculated to insure the liberties of their country. As it is, they conceive the happiness of *America* and the harmony of the union to depend altogether on suffering it to proceed, undisturbed in its operations by premature alterations or amendments.⟩ which, however plausible they may be in theory, or necessary perhaps to the idea of a perfect form of government, experience, after all, can demonstrate whether they would be real improvements or not.

That under such forcible impressions, the House cannot, consistently with the special duty they owe to the good people of this state, or with the affection which, in the enlarged spirit of patriotism, they bear to the citizens of the United States at large, concur with the Legislature of *Virginia* in their proposed application to Congress, for calling a Convention of the states for the above mentioned purposes.

Ordered to lie on the table.

1. Printed: *Assembly Journal*, 112–13. The Assembly proceedings were also printed in the *Pennsylvania Packet*, 6 March; *Pennsylvania Mercury*, 7 March; *Maryland Journal*, 13 March; *Virginia Herald*, 19 March; *Virginia Centinel*, 25 March; Middletown, Conn., *Middlesex Gazette*, 28 March. The text in angle brackets was printed in the *Massachusetts Centinel*, 21 March; and *Newport Herald*, 26 March.

*Pennsylvania Assembly Proceedings, Thursday, 5 March 1789*¹

The motion made by Mr. *Clymer*, seconded by Mr. *Robinson*, March 3d, respecting the letter from the Governor of the state of *Virginia* to the President of this state, with its inclosures, was read the second time.

A motion was made by Mr. *MLene*, seconded by Mr. *Wright*,

To postpone the consideration of the resolution contained in the said motion, in order to introduce the following, in lieu thereof, *viz.*

Resolved, That this House do concur in opinion with the legislature of the commonwealth of *Virginia*, that great and material amendments in the constitution lately formed by the Continental Convention, and since ratified by a majority of the states, are absolutely necessary to the liberty and safety of the good people of the United States.

Resolved, That the most eligible mode of obtaining such amendments, and the only mode in which they may be reasonably expected, is that which is appointed by the constitution itself,—the calling a convention of deputies from the several states, for the purpose of taking into consideration the defects of the constitution that have been suggested by the State Conventions, and reporting such amendments thereto, as may be found necessary to the interest and happiness of the people.

Resolved, That a committee be appointed to prepare an address to the Congress of the United States, requesting that such Convention, for the purpose aforesaid, may be called without delay, and that the same be presented to Congress in the name of the legislature of the commonwealth of *Pennsylvania*.

On the question,—“*Will the House postpone for the aforesaid purpose?*”—

The Yeas and Nays were called by Mr. M'Lene and Mr. Wright, and were as follow, viz.

YEAS.

1 David Mitchell,	10 James Marshall,
2 Thomas Kennedy,	11 James Allison,
3 Thomas Beale,	12 Alexander Wright,
4 Jonathan Hoge,	13 John Gilchreest,
5 Joseph Heister,	14 Theophilus Philips,
6 Joseph Sands,	15 James M'Lene,
7 John Ludwig,	16 James Johnson,
8 John Piper,	17 Jacob Miley,
9 William Todd,	18 Adam Orth.

NAYS.

1 George Clymer,	12 Samuel Foulke,
2 Thomas Fitzsimons,	13 Richard Thomas,
3 Jacob Hiltzheimer,	14 James Moore,
4 Lawrence Sickle,	15 Mark Wilcox,
5 William M'Pherson,	16 John M'Dowell,
6 John Salter,	17 Caleb James,
7 George Logan,	18 Richard Downing, jun.
8 William Robinson, jun.	19 Alexander Lowrey,
9 Gerardus Wynkoop,	20 James Clemson,
10 John Chapman,	21 John Hopkins,
11 Valentine Upp,	22 James Cunningham,

23 Jacob Erb,	33 Jacob Saylor,
24 Henry Dering,	34 John White,
25 Thomas Lilley,	35 John Nevil,
26 Michael Schmyser,	36 Robert Lollar,
27 Henry Tyson,	37 Jacob Reiff,
28 Joseph Reed,	38 Peter Richards,
29 Gabriel Heister,	39 Jonathan Roberts,
30 Daniel Broadhead,	40 John Carson,
31 Peter Trexler, jun.	41 Obadiah Gore,
32 Stephen Balliot,	42 Hugh Davison.

So it was carried in the negative; and the original motion recurring, *viz.*

The House, taking into consideration the letter from the Governor of *Virginia* to the President of this state, and its several inclosures, transmitted by the Supreme Executive Council in their message of the 6th of *February* last,

Resolved, That his Excellency the President be requested to assure his Excellency Governor *Randolph*, that, accustomed to sentiments of the highest respect and deference for the legislature of *Virginia*, it must ever be painful to the House, when obliged to dissent from the opinion of that Assembly upon any point of common concern to the two states, as members of the union; and, particularly, on a measure of such importance as the one now proposed, the calling of a convention of the states for amending the fœderal constitution, the necessity of which they are not able to discern, though it is so apparent to and so earnestly insisted on by that legislature.

⟨That though it is possible this constitution may not be a system exempt, in all its parts, from error; yet the House do not perceive it wanting in any of those fundamental principles, which are calculated to insure the liberties of their country. As it is, they conceive the happiness of *America* and the harmony of the union to depend altogether on suffering it to proceed, undisturbed in its operations by premature alterations or amendments,⟩² which, however plausible they may be in theory, or necessary perhaps to the idea of a perfect form of government, experience, after all, can demonstrate whether they would be real improvements or not. That under such forcible impressions, the House cannot, consistently with the special duty they owe to the good people of this state, or with the affection, which, in the enlarged spirit of patriotism, they bear to the citizens of the United States at large, concur with the Legislature of *Virginia* in their proposed application to Congress, for calling a Convention of the states for the above mentioned purpose.³

On the question,—“*Will the House adopt the same?*”—the Yeas and Nays were called by Mr. *M'Lene* and Mr. *Kennedy*, and were as follow, *viz.*

YEAS.

1 George Clymer,	22 Jacob Erb,
2 Thomas Fitzsimons,	23 Henry Dering,
3 Jacob Hiltzheimer,	24 Thomas Lilley,
4 Lawrence Sickle,	25 Michael Schmyser,
5 William M'Pherson,	26 Henry Tyson,
6 John Salter,	27 Joseph Reed,
7 William Robinson, jun.	28 Daniel Broadhead,
8 Gerardus Wynkoop,	29 Peter Trexler, jun.
9 John Chapman,	30 Peter Ealer,
10 Valentine Upp,	31 Stephen Balliot,
11 Samuel Foulke,	32 Jacob Saylor,
12 Richard Thomas,	33 John White,
13 James Moore,	34 John Nevil,
14 Mark Wilcox,	35 Robert Lollar,
15 John M'Dowell,	36 Jacob Reiff,
16 Caleb James,	37 Peter Richards,
17 Richard Downing, jun.	38 Jonathan Roberts,
18 Alexander Lowrey,	39 John Carson,
19 James Clemson,	40 Obadiah Gore,
20 John Hopkins,	41 Hugh Davison.
21 James Cunningham,	

NAYS.

1 George Logan,	11 William Todd,
2 David Mitchell,	12 James Marshall,
3 Thomas Kennedy,	13 James Allison,
4 Thomas Beale,	14 Alexander Wright,
5 Jonathan Hoge,	15 John Gilchreest,
6 Joseph Heister,	16 Theophilus Philips,
7 Gabriel Heister,	17 James M'Lene,
8 Joseph Sands,	18 James Johnson,
9 John Ludwig,	19 Jacob Miley,
10 John Piper,	20 Adam Orth.

So it was carried in the affirmative.

1. Printed: *Assembly Journal*, 123–26. The *Pennsylvania Packet*, 12 March printed the Assembly's proceedings. Reprintings of the entire proceedings or excerpts appeared in the *Philadelphia Independent Gazetteer*, 13 March; *Pennsylvania Carlisle Gazette*, 18 March; *Virginia Independent Chronicle*, 25 March; Middletown, Conn., *Middlesex Gazette*, 28 March. (See also note 3 below.) On 19 October 1789 Governor Randolph submitted to the Speaker of the Virginia House of Delegates the Pennsylvania resolution responding to his letter of 2 December 1788 (MS, Executive Letter Book, Virginia State Library).

2. The text in angle brackets was printed in the *Massachusetts Centinel*, 21 March, and *Newport Herald*, 26 March.

3. The preceding two paragraphs were printed in the March 1789 issue of the *Philadelphia American Museum* (p. 277).

*Pennsylvania President Thomas Mifflin to Virginia Governor
Beverly Randolph, In Council, Philadelphia, 6 March 1789¹*

Your Excellency's Letter of the second day of December last, with the papers which accompanied it, were laid before the Legislature of this State on the second day of their present Session, and I have the satisfaction of assuring your Excellency,

[Here follows the Pennsylvania's Assembly's response to Virginia's call for a second constitutional convention].

I have the honor to be with great respect

1. FC, Executive Communications, Virginia State Library, Archives Division. The punctuation and capitalization alone differs between the recipient's copy and the version in the Assembly Journal on 5 March. A file copy is in RG 27, Letterbook 1782-1789 of Records of the Secretary of the Supreme Executive Council of Pennsylvania, P-Ar.

U.S. House of Representatives Receives and Tables Virginia's Application for a Second Constitutional Convention, 5 May 1789¹

MR. [THEODORICK] BLAND presented to the house the application of the legislature of Virginia, dated 14th November 1788, for the immediate calling of a convention of deputies from the several states, with full power to take into their consideration the defects of the federal Constitution, that have been suggested by the state conventions, and report such amendments thereto, as they shall find best suited to promote our common interests, and secure to ourselves and our latest posterity the great and unalienable rights of mankind.

After this application was read,

MR. BLAND moved to refer it to a committee of the whole, on the state of the union—his motion was seconded by Mr. [Josiah] Parker.

MR. [ELIAS] BOUDINOUT. According to the terms of the constitution, the business cannot be taken up until a certain number of states have concurred in similar applications; certainly the house are disposed to pay a proper attention to the application of so respectable a state as Virginia, but if it is a business which we cannot interfere with in a constitutional manner, we had better let it go and remain on the files of the house until the proper number of applications come forward.

MR. BLAND. Thought there could be no impropriety in referring any subject to a committee, but surely this deserved the serious and solemn consideration of Congress, he hoped no gentleman would oppose the

compliment of referring it to a committee of the whole: beside, it would be a guide to the deliberations of the committee on the subject of amendments, which would shortly come before the house.

MR. [JAMES] MADISON. Said he had no doubt but the house were inclined to treat the present application with respect, but he doubted the propriety of committing it, because it would seem to imply that the house had a right to deliberate upon the subject—this he believed was not the case until two-thirds of the state legislatures concurred in such application, and then it is out of the power of Congress to decline complying, the words of the constitution are express and positive relative to the agency Congress may have in case of applications of this nature. The Congress, wherever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution; or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments. From hence it must appear, that Congress have no deliberative power on this occasion. The most respectful and constitutional mode of performing our duty will be to let it be entered on the minutes, and remain upon the files of the house until similar applications come to hand from two-thirds of the states.

MR. BOUDINOT. Hoped the gentlemen who desired the commitment of the application, would not suppose him wanting in respect to the state of Virginia, he entertained the most profound respect for her—but it was a principle of respect to order and propriety that he opposed the commitment upon; enough had been said to convince gentlemen that it was improper to commit—for what purpose can it be done? What can the committee report? The application is to call a new convention. Now in this case, there is nothing left for us to do, but to call one when two-thirds of the state legislatures apply for that purpose—he hoped the gentleman would withdraw his motion for commitment.

MR. BLAND. The application now before the committee contains a number of reasons why it is necessary to call a convention, by the 5th article of the constitution, Congress are obliged to order this convention when two-thirds of the legislatures apply for it; but how can these reasons be properly weighed, unless it be done in committee? Therefore I hope the house will agree to refer it.

MR. [BENJAMIN] HUNTINGTON. Thought it proper to let the application remain on the table, it can be called up with others when enough are presented to make two-thirds of the whole states. There would be an evident impropriety in committing, because it would argue a right in the house to deliberate and consequently a power to procrastinate the measure applied for.

MR. [THOMAS TUDOR] TUCKER. Thought it not right to disregard the application of any state, and inferred, that the house had a right to consider every application that was made; if two-thirds had not applied, the subject might be taken into consideration, but if two-thirds had applied it precluded deliberation on the part of the house. He hoped the present application would be properly noticed.

MR. [ELBRIDGE] GERRY. The gentleman from Virginia (Mr. Madison) told us yesterday, that he meant to move the consideration of amendments on the 4th Monday of this month; he did not make such motion then, and may be prevented by accident, or some other cause, from carrying his intention into execution when the time he mentioned shall arrive; I think the subject however is introduced to the house, and perhaps it may consist with order to let the present application lie on the table until the business is taken up generally.

MR. [JOHN] PAGE. Thought it the best way to enter the application at large upon the Journals, and do the same by all that came in, until sufficient were made to obtain their object. The original being deposited in the archives of Congress. He deemed this the proper mode of disposing of it, and what is in itself proper can never be construed into disrespect.

MR. BLAND. Acquiesced in this disposal of the application. Whereupon it was ordered to be entered at length on the Journals, and the original to be placed on the files of Congress.

1. Printed: *Congressional Register*, I, 198–200. Two versions of the House proceedings were printed in New York City newspapers and widely reprinted. The *Gazette of the United States*, 2–6 May version was reprinted ten times by 15 June: Mass. (3), Conn. (2), N.Y. (2), Pa. (3). The *Gazette*, 6–9 May, printed a two-paragraph summary that was reprinted in the *Hartford American Mercury*, 25 May, and the *Connecticut Courant*, 22 June. The *New York Daily Advertiser*, 6 May version, was reprinted eighteen times by 3 June: N.H. (1), Mass. (3), R.I. (1), N.Y. (4), Pa. (5), Md. (3), Va. (1). The *Advertiser*, 8 May, printed an errata that has not been found in any other newspaper changing a question in Bland's speech from "whether the apprehensions of the people of that State [i.e., Virginia] were well or ill founded" in proposing a convention to obtain amendments to whether the other "States were right or wrong" in not supporting Virginia.

New York General Assembly
Concurrent Resolution Requesting Congress to Call
a Second Constitutional Convention
7 February 1789

On 13 October 1788 Governor George Clinton issued a proclamation instructing the legislature to meet in Albany on 8 December, a month earlier than usual. This session would, among other things, consider the proposal for

a second general convention and make provisions for the election of U.S. Representatives, Senators, and Presidential Electors under the new Constitution. The Assembly was controlled by Antifederalists and the Senate by Federalists.

In preparation for the legislative session, a small group of Antifederalist leaders met in New York City between 30 October and 13 November “to form themselves into a Society, for the purpose of procuring a general Convention, agreeable to the circular Letter.” On 30 October a committee of three—Melancton Smith, John Lamb, and James M. Hughes—was appointed to draft letters to Antifederalists in New York’s several counties and in other states. (Only Smith had been a delegate to the New York ratifying Convention.) The committee reported drafts on 4 November which insisted on the need for amendments to the Constitution to protect political and civil liberties against a government with excessive and dangerous powers. A general convention, stated the committee, had been promised by Federalists and without such a promise the Constitution would not have been ratified unconditionally. Since the committee believed that Federalists could not be trusted to keep their promises, it was imperative that Antifederalists cooperate and unite in obtaining amendments through a general convention, “the only mode that is now left.” On 13 November the Society again met but could not obtain a quorum and adjourned. (For the Society’s proceedings, see RCS:N.Y., 2475–80.)

Soon after the Society adjourned, a few essays appeared in New York City newspapers supporting the call of a general convention and the election of congressmen who would support amendments. “A Federalist who is for Amendments” reminded his readers that New York Convention delegates had been unanimous in their belief that some amendments were proper and that they favored the calling of another general convention to obtain them. Many Americans supported amendments, including some Federalists. “I hope,” the writer concluded, “none of those who made such professions will be guilty of such duplicity of conduct as to oppose the calling a convention to propose amendments” (*New York Daily Advertiser*, 22 November).

On 27 November “A Federal Republican” published the first of two essays in the Antifederalist *New York Journal* in which he described the Constitution as “imperfect, capable of great improvements” and called for the election of congressmen who would support amendments. He promised, in future writings, to “point out the duplicity of conduct and disregard to the public good of some, who now oppose any alterations in it, though previous to its adoption they declared themselves in favor of amendments” (DHFFE, III, 212–13). A week later “Sidney” (Antifederalist Abraham Yates, Jr.) recommended that the state legislature “inhibit” New York’s elected federal officials from taking an oath to support the new government until amendments were adopted (*New York Journal*, 4 December 1788, RCS:N.Y., 2480–86n). On 11 December “A Federal Republican” was distressed because Federalists had dropped their support of a general convention in favor of giving the new government a trial before making alterations. He called upon his readers to elect congressmen who advocated amendments and who would “firmly pursue the plan recommended by the convention of this state” (DHFFE, III, 214–15).

On 11 December 1788 Governor George Clinton laid before the New York legislature the proceedings of the New York Convention (including the circular

letter) and the 13 September 1788 ordinance of the Confederation Congress for putting the Constitution into operation. He called "particular attention to the amendments" that the Convention had proposed, and he noted that the Constitution had been ratified on the belief that "a General Convention" would revise the Constitution. The circular letter, declared Clinton, recommended "a speedy revival" of the Constitution in order to obtain "the approbation and support of a numerous body of our Constituents, and to allay the apprehensions and discontents which the exceptionable articles of it had occasioned." Clinton then quoted the circular letter "that no Government, however constructed, can operate well, unless it possesses the confidence and good will of the great body of the people."

The Antifederalist-controlled Assembly immediately appointed a committee of three to prepare an answer to the governor. On 13 December the Assembly considered the response in a committee of the whole. On 18 December Samuel Jones, the committee's chairman, reported a draft that the committee of the whole considered. On 22 December the unamended draft was accepted and ordered to be engrossed. Later that day, the committee of the whole agreed to a resolution that a committee be appointed to draft an application to Congress, "requesting them as early as possible, to call a Convention for proposing amendments to the Constitution of the United States." Thereupon, the Assembly resolved that a committee of five, consisting of Samuel Jones (chairman), Richard Harison, Brockholst Livingston, Jonathan N. Havens, and John Bay, prepare a draft of the application. Federalist Harison and Antifederalists Jones and Havens had voted to ratify the Constitution, while Antifederalist Bay had voted against. Livingston had not been a member of the New York Convention.

On 23 December the engrossed address to the governor was read in the Assembly, and it was ordered that "the whole House" present the address to the governor, which was done on the 24th. In the address, the Assembly agreed with the governor and the circular letter "that no government can operate well unless it possesses the confidence and good will of the People," and it was impressed with "the unanimous sense of the Convention, expressed in their circular letter." Therefore, the Assembly would do what it could to obtain "a speedy revision" of the Constitution "by a new Convention. And we are convinced, that such a revision only, can allay the apprehensions excited by those parts of that system which are considered as exceptionable."

The Federalist-controlled Senate considered the governor's message separately from the Assembly. On 11 December, it committed the governor's speech and the accompanying papers to a committee of the whole. On 24 December, Abraham Yates, Jr., reported a draft of an answer to the governor.

Yates moved to expunge the report and replace it with a new version. His substitute expressed "perfect concurrence" with the "sentiments" of the circular letter and Clinton's speech respecting amendments. The defects of the Constitution, stated Yates, had to be corrected and apprehensions "so justly and generally occasioned" by the "exceptionable parts" of the Constitution had to be allayed. Yates also wanted to bring about "an early revision of the system" as recommended by the New York Convention and as "anxiously desired by our constituents." Lastly, he deleted any reference to "the weakness

and defects” of the Confederation government. The Senate rejected Yates’s substitute.

Thomas Tredwell, who had voted against ratification of the Constitution in the state Convention, moved to expunge two paragraphs and substitute new language. Tredwell’s substitute emphasized that the ratification of the Constitution by the New York Convention “was not unconditional and without reserve.” The Senate hoped that the circular letter would bring about the proposed amendments. Amendments, declared Tredwell, would relieve “the minds of a great part of the community from the anxious apprehensions of evils from the undefined powers of the new Government.” Such powers which were “much greater than they have ever experienced, or can be apprehended from the weaknesses and defects” of the Confederation. Tredwell’s substitute assured the governor “that we shall use our utmost endeavors to bring about an early revision of the system” so that people could have confidence in their government. The Senate also defeated Tredwell’s substitute.

After these substitutes failed, the draft response to the governor as originally presented was agreed to 11–8 and ordered engrossed. On 26 December the governor received the address. Although the Senate admitted that the governor was justified in convening the legislature at an earlier date, it wished that he had called it even earlier so that it could consider the appointment of Electors for the President and Vice President of the United States. Clinton replied that it was “impracticable” to have called the legislature earlier. He was persuaded that the legislature would “perceive the propriety of pursuing your principle, as far as circumstances will permit, and of adopting such mode of appointment, as shall appear most nearly to approach an election by the People.” Nor would Clinton comment on “how far the ideas contained in your answer will tend to facilitate the attainment of the objects so earnestly recommended by our Convention.” He had done his duty by transmitting “the sentiments and wishes of the Convention” to the legislature.

On 26 December 1788 Governor Clinton transmitted to the Senate the 2 December letter of Virginia Lieutenant Governor Beverley Randolph along with its enclosures concerning Virginia’s call for a general convention. The Senate committed the papers to a committee of the whole. The next day the Senate transmitted Clinton’s message and the accompanying papers to the Assembly which read them, entered them on its journal, and committed them to the committee that had been appointed on 22 December. In Clinton’s letter of transmittal, he said he was communicating the papers “with the greater pleasure, from the persuasion, that it will give you satisfaction to find a State, so respectable for wisdom and patriotism, perfectly concurring in sentiment with our Convention respecting the necessity of amendments to the new system of General Government, and the means of obtaining them.” The Assembly, however, did not renew its consideration of the calling of a general convention until late January 1789. It spent much of its time trying to adopt legislation to elect U.S. senators and presidential electors.

On 29 January 1789 the committee of five—appointed by the Assembly on 22 December 1788 and chaired by Samuel Jones—reported a resolution providing for an application to Congress requesting the call of a general conven-

tion. The resolution stated that the New York Convention had ratified the Constitution “in the fullest confidence” that a general convention would be called to propose amendments. The Convention had been unanimous in its belief that the Constitution needed revision. A majority of the people wanted revision and their apprehensions and discontents had to be allayed. The resolution asked that Congress call a general convention “immediately” to report amendments “as they shall find best suited to promote our common interests, and secure to ourselves and our latest posterity, the great and unalienable rights of mankind.”

The Assembly in a committee of the whole considered the resolution on 2 February, and on 4 February it debated the measure vigorously. Federalist Brockholst Livingston—the only member of the committee of five who had not been a New York Convention delegate—opposed the resolution, stating that Congress itself should have the discretion of deciding on the best mode for proposing amendments as provided by the Constitution: either to propose amendments itself or to call a convention to propose amendments. However, Livingston preferred that Congress itself propose amendments. He believed that Congress would be less divided by party spirit than a convention. At this point Livingston introduced a substitute resolution which requested that Congress take the New York amendments and those of the other states into their “early and mature consideration” and propose them to the state legislatures or call a convention “at a period not far remote” in accordance with Article V of the Constitution “as the one or the other mode of ratification may to them appear best calculated to promote the peace and welfare of the Union.” Livingston declared that in his resolution he was following the New York Form of Ratification which he claimed did not mention a convention and which called for the ratification of amendments “in the manner prescribed in the constitution.” The circular letter, Livingston admitted, did recommend the calling of a convention but it only represented advice that could be taken or ignored.

Samuel Jones, a former New York Convention delegate, countered that Congress would also be filled with party men. The circular letter was the unanimous sentiment of the Convention delegates, and their wishes should be followed. Ratification of the Constitution would not have been possible without the promise of a general convention. In fact, it was a condition of ratification. There would not be peace until a convention was called. John Lansing, Jr., another former New York Convention delegate and the speaker of the Assembly, also emphasized that a general convention was the wish of the Convention delegates. He said that a majority of the New York legislature and the people also supported a general convention. Livingston responded that the unanimity of the circular letter had been coerced, and he was not convinced a majority of the people wanted an immediate convention. The circular letter had called for a convention at “a period not far remote,” while the original resolution wanted it summoned “immediately.” Both Jones and Lansing denied that coercion had been involved in the circular letter. Federalist Richard Harison, who had voted to ratify the Constitution in the Convention, declared that he had signed the circular letter to allay the apprehensions of people. The Constitution could

be improved and a convention would not act rashly. Therefore, he would vote against Livingston's substitute resolution. Livingston's resolution was defeated 43 to 9.

Following the vote, the Assembly adopted John Lansing's motion amending the original resolution. The motion provided that to the end of the sentence beginning "The People of the State of New-York" the following words be added: "And in confidence, that certain powers in and by the said Constitution granted, would not be exercised until such revision should have taken place." The Assembly ordered the committee of the whole to sit again to continue considering the resolution.

The next day, 5 February, Brockholst Livingston moved that in the passage beginning "We, the Legislature" the word "immediately" be replaced by the words "at a period not far remote" after the word "called." His motion was defeated 33 to 18. Federalist Alexander Macomb moved that the word "immediately" be replaced by the words "as early as possible." His motion passed 28 to 21. To prevent wholesale changes in the Constitution, Livingston moved that a general convention take into consideration only "the amendments proposed by this or other States" rather than the Constitution as a whole. The motion lost by a vote of 37 to 10. At this point, the Assembly adopted the resolution as originally reported by Jones on 29 January, as amended, by a vote of 43 to 8. The Senate concurred with the Assembly resolution on 7 February, with only two senators voting against it.

On 27 February Samuel Jones moved a resolution that the governor be requested to transmit to Congress the application calling for a convention and that he also transmit the application to the state executives so that they could communicate it to their respective legislatures. Brockholst Livingston moved that the passage about the other states be deleted, but his motion was defeated 28 to 15. The Assembly then adopted Jones's resolution, and the Senate concurred on 3 March. Two days later, Governor Clinton transmitted the application to Congress and the state executives.

On 4 May 1789 on a motion of Federalist James Madison, a Virginia member of the U.S. House of Representatives, the House "Ordered that the 4th Monday in May be assigned for the consideration of the exercise of the powers vested in Congress by the 5th article of the constitution, relative to amendments" (BoR, I, 304). The next day, Theodorick Bland, a Virginia congressman who had voted against ratifying the Constitution in the state Convention, presented the Virginia application for a general convention to the House. The application was read, and it was ordered that it "be entered on the journal, and carefully preserved by the clerk of this House, among the files in his office." On 6 May, Federalist John Lawrence (Laurance), a New York member of the U.S. House of Representatives, presented the New York application to the House, and the House took the same action that it had taken on the Virginia application (BoR, I, 193-95, 230). On 25 May, on a motion by Madison, consideration of amendments was postponed until 8 June. On that day, Madison presented his amendments, thereby ending any real chance that a second general convention would be summoned.

Assembly Proceedings, Thursday, 11 December 1788¹

A message from the Honorable the Senate was delivered by Mr. Yates and Mr. Micheau, that the Senate are met and ready to proceed on business.

Ordered, That Mr. Jones and Mr. Carman wait on His Excellency the Governor, and inform him that this House is met and ready to proceed on business.

Ordered, That Mr. B. Livingston and Mr. Gilbert wait on the Honorable the Senate, and inform them that this House is met and ready to proceed on business.

Mr. Jones reported that pursuant to the order of the House, Mr. Carman and himself had waited on His Excellency the Governor, with the message from this House; and that His Excellency was pleased to say that he would send a message to the House immediately.

Mr. B. Livingston reported that Mr. Gilbert and himself had waited on the Honorable the Senate with the message from this House.

A message from his Excellency, the Governor was delivered by his private Secretary, that His Excellency requires the immediate attendance of this House in the Assembly Chamber.

Mr. Speaker left the chair, and with the House attended accordingly, and His Excellency the Governor, and the Honorable the Senate, who had also attended, having respectively retired, *Mr. Speaker* reassumed the chair, and reported to the House, that His Excellency had been pleased to make a speech to both Houses of the Legislature, and to deliver him a copy thereof. The same being read is in the words following, viz.

[Here appears Governor Clinton's speech (see below).]

Resolved, That His Excellency the Governor's Speech be taken into consideration immediately, and the House proceeded to the consideration thereof accordingly.

Ordered, That His Excellency's Speech be forthwith printed.

Resolved, That a respectful address be presented to His Excellency the Governor in answer to his Speech.

Ordered, That a committee be appointed to prepare a draft of the said address, and that Mr. Jones, Mr. Harison and Mr. Yates, be a committee for that purpose.

Then the House adjourned until ten of the clock to-morrow morning.

1. *Journal of the Assembly of the State of New-York* (Albany, 1789) (Evans 22008), 4–5. Hereafter cited as *Assembly Journal*.

Senate Proceedings, Thursday, 11 December 1788¹

A message from the Honorable the Assembly by Mr. B. Livingston and Mr. Gilbert was received, informing that they were ready to proceed on public business.

A message from His Excellency the Governor was received, requiring the attendance of the Senate in the Assembly Chamber.

The President accordingly left the chair, and with the Senate, attended His Excellency, and being returned, reassumed the chair and informed the Senate, that His Excellency the Governor had made a Speech to the Legislature, of which he had obtained a copy, which being read, is in the words following, viz.

[Here appears Governor Clinton's speech (see immediately below).]

Ordered, That His Excellency's Speech, with the several papers accompanying the same, be committed to a committee of the whole.

Mr. Williams from the committee of the whole, to whom was referred his Excellency's Speech, and the papers accompanying the same, reported, that the committee had made further progress therein, and directed him to move for leave to sit again.

Ordered, That the said committee have leave to sit again.

1. *Journal of the Senate of the State of New-York* (Albany, 1789) (Evans 22010), 4–5. Hereafter cited as *Senate Journal*.

Governor George Clinton Speech to the General Assembly Albany, 11 December 1788 (excerpts)¹

Gentlemen of the Senate and Assembly,

I was induced to convene you at this time, that I might have a seasonable opportunity of laying before you the proceedings of the Convention of this State, lately held at Poughkeepsie, and the ordinance of Congress for putting into operation the Constitution for the United States,² which was adopted by that Convention.

While I submit this important subject to the Legislature, it is my duty to call your particular attention to the amendments proposed by our Convention, to this new system of general Government. It will appear from the instrument of ratification, that a declaration of rights with certain explanations are inserted, in order to remove doubtful constructions, and to guard against an undue and improper administration; and that it was assented to on the express confidence, that the exercise of different powers would be suspended, until it should undergo a revision by a General Convention of the States. You will also perceive by the Circular Letter addressed to our Sister States,³ that sev-

eral articles of it appeared so exceptionable to a majority of the Convention, that nothing short of the fullest confidence of obtaining such a revision,⁴ could have prevailed upon a sufficient number to have ratified it, without stipulating for previous amendments; and that all united in opinion, that a speedy revisal of the system would be necessary to recommend it to the approbation and support of a numerous body of our Constituents, and to allay the apprehensions and discontents which the exceptionable articles of it had occasioned. These considerations, and a conviction of the truth of the observation, “that no Government, however constructed, can operate well, unless it possesses the confidence and good will of the great body of the people,” will, I am persuaded, be sufficient to engage your best endeavors for effecting a measure so earnestly recommended by the Convention, and anxiously desired by your Constituents. . . .

Gentlemen,

When I reflect on the great change which is soon to take place in the General Government, and the influence it may have on the police and revenues of the State, I am sensible it will be a difficult task to determine on the measures most proper to be pursued at this time; but I have confidence in your wisdom, and that all your decisions will be influenced by a regard for the interests of your constituents.

Permit me only to observe, that in whatever situation we may be placed, a steady attention to the promotion of agriculture and the introduction and encouragement of the useful arts, are essential to the prosperity of our country; for it is from these alone we are to derive our principal resources for profitable commerce; and it is, with the blessings of Heaven, by industry and frugality, as well as by the justice and stability of our laws, that we can expect to ensure respectability abroad, or happiness at home.

GEO. CLINTON.

Albany, 11th December, 1788.

1. Printed: *Assembly Journal*, 4–5. The speech was printed in the *New York Daily Advertiser*, 15 December, and reprinted, in whole or in part, thirty-three times by 22 January: Vt. (1), N.H. (2), Mass. (9), R.I. (3), Conn. (4), N.Y. (5), N.J. (2), Pa. (4), Md. (1), Va. (1), N.C. (1).

2. On 13 September 1788, the Confederation Congress passed an ordinance setting the dates for the first federal elections and the first meeting of Congress under the Constitution (BoR, I, 153–58, 230).

3. For the Circular Letter of the New York Convention, 26 July 1788, see RCS:N.Y., 2335–37n.

4. For the important substitution of the phrase “in full confidence” replacing “upon condition” in obtaining the New York Convention’s ratification of the Constitution, see RCS:N.Y., 2280–87.

Assembly Proceedings, Saturday, 13 December 1788¹

The residue of the papers which accompanied the speech of His Excellency the Governor were then read.

Resolved, That the speech of His Excellency the Governor, and the papers which accompanied the same, be committed to a committee of the whole House, and that the said committee proceed to the consideration thereof immediately.

The House then resolved itself into a committee of the whole House, on His Excellency the Governor's Speech, and the papers which accompanied the same; and after some time spent thereon, Mr. *Speaker* reassumed the chair, and Mr. Low from the said committee reported, that the committee had made some progress therein, and had directed him to move for leave to sit again.

Ordered, That the said committee have leave to sit again.

Then the House adjourned until Monday next, at ten of the clock in the forenoon.

1. Printed: *Assembly Journal*, 8-9.

Senate Proceedings, Saturday, 13 December 1788¹

Mr. Williams from the committee of the whole, to whom was referred his Excellency's Speech, and the papers accompanying the same, reported, that the committee had made further progress therein, and directed him to move for leave to sit again.

Ordered, That the said committee have leave to sit again.

1. Printed: *Senate Journal*, 7.

Assembly Proceedings, Thursday, 18 December 1788¹

Mr. Jones from the committee appointed to prepare a draft of a respectful address to His Excellency the Governor, in answer to his Speech, reported that the committee had prepared a draft accordingly; and he read the said draft in his place, and delivered the same in at the table, where it was again read.

Ordered, That the said draft of an address, be committed to a committee of the whole House.

1. Printed: *Assembly Journal*, 14.

Assembly Proceedings, Friday, 19 December 1788¹

The House then resolved itself into a committee of the whole House, on the draft of a respectful address, in answer to the speech of His

Excellency the Governor at the opening of the session; and after some time spent thereon, Mr. Low from the said committee reported, that the committee had made some progress therein, and had directed him to move for leave to sit again.

Ordered, That the said committee have leave to sit again.

1. Printed: *Assembly Journal*, 16. A brief summary appeared in the *New York Morning Post*, 1 January 1789, which was reprinted in the *New York Journal*, 22 January.

Assembly Proceedings, Monday, 22 December 1788 (excerpts)¹

Mr. Low from the committee of the whole House, on the draft of a respectful address to his Excellency the Governor at the opening of the session, reported that the said committee had gone through the said draft without amendment, which he was directed to report to the House; and he read the report in his place, and delivered the said draft in at the table, where it was again read and agreed to by the House[.]

Ordered, That the said draft of a respectful address be engrossed. . . .

Mr. Low from the committee of the whole House, on the speech of His Excellency the Governor, and the papers which accompanied the same, at the opening of the session, reported, that the committee had agreed to a resolution, which he was directed to report to the House, in the words following, viz.

“*Resolved*, As the opinion of this committee, that a committee be appointed to prepare a draft of an application of the Legislature of this State to Congress, requesting them as early as possible, to call a Convention for proposing amendments to the Constitution of the United States.”²

And that he was directed by the said committee to move for leave to sit again.

Mr. Low read the report in his place, and delivered the same in at the table, where it was again read and agreed to by the House.

Thereupon, *resolved*, That Mr. Jones, Mr. Harison, Mr. B. Livingston, Mr. Havens and Mr. Bay, be a committee to prepare a draft of an application of the Legislature of this State to Congress, requesting them as early as possible, to call a Convention for proposing amendments to the Constitution of the United States.

Ordered, That the said committee of the whole House have leave to sit again.

1. Printed: *Assembly Journal*, 18–19.

2. This resolution was printed in the *New York Daily Advertiser*, 30 December, and reprinted fourteen times by 28 January 1789: N.H. (1), Mass. (1), R.I. (3), N.Y. (3), Pa. (3), Md. (2), Va. (1), and in the January issue of the *Philadelphia American Museum*.

A slightly different report with the names of the five men appointed to the committee appeared in the Baltimore *Maryland Gazette*, 16 January, and the *Georgia State Gazette*, 14 March.

Assembly Proceedings, Tuesday, 23 December 1788 (excerpts)¹

The engrossed address to His Excellency the Governor, in answer to his speech at the opening of the session, was read, and is in the words following, viz.

[The Assembly's response to Governor Clinton's message appears here (see immediately below).]

Ordered, That Mr. *Speaker* subscribe the said address on behalf of the House.

Ordered, That the said address be presented to His Excellency by the whole House.

Ordered, That Mr. Tearse and Mr. Savage wait on His Excellency the Governor, and request to be informed when he will be pleased to be attended by this House, with their respectful address. . . .

Mr. Tearse reported that pursuant to the order of the House, Mr. Savage and himself had waited on His Excellency the Governor, to know when he would be pleased to be attended by this House with their respectful address, and that His Excellency had been pleased to appoint to-morrow, at twelve of the clock, for that purpose.

1. Printed: *Assembly Journal*, 19–20.

**New York Assembly Response to George Clinton
Albany, 23 December 1788 (excerpts)¹**

To His Excellency GEORGE CLINTON, Esquire, Governor of the State of New-York, General and Commander in Chief of all the Militia, and Admiral of the Navy of the same.

The Respectful Address of the Assembly,
in answer to His Excellency's Speech.

We, the Representatives of the People of the State of New-York, in Assembly convened, are deeply impressed with the importance of the change which is soon to take place in the General Government, in consequence of the Constitution, ratified by the Convention of this State, lately held at Poughkeepsie; and we are fully convinced, that the necessity of adopting measures, in conformity to the ordinance of Congress,² for putting that Constitution into operation, rendered it peculiarly requisite that the Legislature should be assembled at a seasonable and early period.

United with your Excellency and the late Convention of this State, in the sentiment “that no government can operate well unless it possesses the confidence and good will of the People;” and impressed with the highest respect for the opinion of a large proportion of our constituents, as well as for the unanimous sense of the Convention, expressed in their circular letter, we shall pursue, with an ardor and perseverance adequate to the importance of the object, every measure which will tend to induce a speedy revision of the general system of government, by a new Convention. And we are convinced, that such a revision only, can allay the apprehensions excited by those parts of that system which are considered as exceptionable. . . .

We are sensible of the influence which the approaching change in the General Government may have on the police and revenues of the State, and that the task of legislation is thereby rendered uncommonly difficult at the present time; but we beg leave to assure your Excellency, that all our deliberations will be directed by a sincere regard to the interest and happiness of our country; which we are persuaded can only be advanced by the justice and stability of our laws; by the diffusion of a general spirit of industry and frugality among our fellow citizens, and by a steady attention to the encouragement of agriculture and the useful arts, the only permanent sources of productive commerce and substantial wealth.

Assembly-Chamber, December 23d, 1788.

1. Printed: *Assembly Journal*, 19–20. The Assembly’s response to Governor Clinton’s speech was printed in the *Albany Gazette*, 26 December, and reprinted, in whole or in part, twenty times by 5 February 1789: Mass. (5), R.I. (2), N.Y. (4), Pa. (4), Md. (1), Va. (3), N.C. (1).

2. A reference to Congress’ ordinance of 13 September 1788 setting the dates for the first federal elections and the place and date of the meeting of the first federal Congress (RCS:Congress, 72–77n; CC:845).

Assembly Proceedings, Wednesday, 24 December 1788¹

Mr. Speaker then left the chair, and with the House attended his Excellency the Governor, with their Respectful Address, according to his appointment, and being returned, he reassumed the chair, and reported that the House had attended his Excellency the Governor with their address, and that his Excellency had been pleased to return an answer thereto, and to deliver him a copy of the answer, which was read, and is in the words following, viz.

[Here is printed Governor Clinton’s response to the Assembly (see immediately below).]

Ordered, That the Respectful Address of this House to his Excellency the Governor, and his Excellency's answer be forthwith printed.

1. Printed: *Assembly Journal*, 21.

**Governor George Clinton Response to the Assembly
Albany, 24 December 1788¹**

Gentlemen

Permit me to tender you my warmest acknowledgments for this polite and obliging address, and to assure you I derive the highest satisfaction from the sentiments which you are pleased to express on the different subjects submitted to your consideration.

GEO. CLINTON.

Albany, 24th, December 1788.

1. Printed: *Assembly Journal*, 21. Printed in *Albany Gazette*, 26 December, and reprinted ten times by 29 January 1789: R.I. (2), N.Y. (4), Pa. (3), Va. (1).

Senate Proceedings, Wednesday, 24 December 1788¹

Mr. Yates from the committee appointed for the purpose, reported, the draft of an answer to His Excellency's speech, which he read in his place, and delivered the same in at the table, where it was again read, and thereupon, the Senate proceeded to consider the same by paragraphs, when the five first paragraphs were read in the words following, viz.

“Sir, When we reflect on the embarrassments of our National Government, destitute of support or energy, exposed to insult from abroad, and submitting to it within our acknowledged limits, languishing under a disadvantageous foreign commerce, and totally deprived of a fur trade, formerly so valuable, we cannot but contemplate the approaching change, as a great and most desirable blessing.

Under such an impression, we must think your Excellency fully justified in the exercise of your prerogative, in convening the Legislature at an earlier day, than that prescribed by law, for the usual annual meeting.

If, in your Excellency's opinion, the public business had admitted thereof, we trust, you would have called us together at an earlier period,² as we consider the appointment of electors, to supply the high confidential trust of President and Vice-President of the United States, the manner of which is not expressly defined, but left to the direction of the respective Legislatures, to be of such magnitude, that if sufficient time had intervened for a general election, we should on our part,

have referred it to the suffrages of the People at large, with the utmost satisfaction.³

We receive with pleasure your Excellency's communications of the proceedings of the State Convention, and consider their ratification of the Fœderal Constitution, as a happy means of cementing the Union, and of relieving the United States from the many evils they experienced, from the weakness and defects of their former confederation.

Convinced Sir, of the truth of the observation, 'That no government, however constructed, can operate well, unless it possesses the confidence and good will of the great body of the People,' we cannot but contemplate the adoption of the present system, by so large a majority of the States, with the utmost satisfaction, as it affords a happy presage, that it will experience that 'Confidence and good will' but since it is susceptible of salutary improvement, and as it is our inclination as well as duty, to pursue every constitutional measure, to ensure to the government, the greatest possible degree of such 'confidence and good will' and as respect for the late Convention, is an additional motive, we shall without hesitation, recommend a submission of the system, to a general Convention."

Mr. Yates, thereupon moved, that the same be expunged, and the following substituted in its stead, viz. Sir, We the Senate in Legislature convened, return your Excellency our cordial thanks for your speech.

The important and interesting subject, which it became your duty to submit to the consideration of the Legislature, rendered it necessary to convene them at this time, and we cheerfully acquiesce in the measure.

The Constitution for the government of the United States, being ratified by the Convention of this State, it shall be our first business to make the necessary arrangements for carrying it into effect, while at the same time, we cannot refrain expressing our perfect concurrence with the sentiments contained in their circular letter, and your Excellency's speech, respecting the amendments proposed.

We are sensible that a revision of the system, by a Convention of the States, will be necessary, not only to correct its defects, and recommend it to the approbation and support of a numerous body of our constituents, but to allay the apprehensions which the exceptionable parts of it have so justly and generally occasioned, and under these impressions, and a conviction of the truth founded on the experience of ages, "that no government can operate well, unless it possesses the confidence and good will of the great body of the People," your Excellency may rest assured, that our best endeavors will be used, to bring about an early revision of the system, a measure so earnestly recommended by the Convention, and anxiously desired by our constituents.

Debates arose upon the said proposed amendment, and Mr. President having put the question thereon, it passed in the negative, in manner following, viz.

FOR THE NEGATIVE [10].

Mr. Philip Schuyler,	Mr. Fonda,	Mr. Roosevelt,
Mr. Douw,	Mr. Vanderbilt,	Mr. L'Hommedieu,
Mr. Micheau,	Mr. Morris,	Mr. Duane.
Mr. Peter Schuyler,		

FOR THE AFFIRMATIVE [8].

Mr. Yates,	Mr. Van Ness,	Mr. Tredwell,
Mr. Hopkins,	Mr. Swartwout,	Mr. Humfrey.
Mr. Williams,	Mr. Townsend,	

Mr. Tredwell then moved to expunge the third paragraph, which was again read, viz.

“If, in your Excellency’s opinion, the public business could have admitted thereof, we trust, you would have called us together at an earlier period, as we consider the appointment of Electors to supply the high confidential trust of President and Vice President of the United States, the manner of which is not expressly defined, but left to the discretion of the respective Legislatures, to be of such magnitude, that if sufficient time had intervened for a general election, we should on our part have referred it to the suffrages of the People at large, with the utmost satisfaction.”

Debates arose on the said motion, and Mr. President having put the question thereon, it passed in the negative, in manner following, viz.

FOR THE NEGATIVE [12].

Mr. Philip Schuyler,	Mr. Vanderbilt,	Mr. Townsend,
Mr. Douw,	Mr. Hopkins,	Mr. L'Hommedieu,
Mr. Micheau,	Mr. Morris	Mr. Duane,
Mr. Peter Schuyler,	Mr. Roosevelt,	Mr. Hoffman.

FOR THE AFFIRMATIVE [6].

Mr. Yates,	Mr. Van Ness,	Mr. Tredwell,
Mr. Williams,	Mr. Swartwout,	Mr. Humfrey.

Mr. Tredwell, then moved to expunge the fourth paragraph which was again read, viz.

“We received with pleasure your Excellency’s communications of the proceedings of the State Convention, and consider their ratification of the Fœderal Constitution as the happy means of cementing the Union, and of relieving the United States from the many evils they experienced from the weakness and defects of their former confederation;” and to

substitute the following in its stead, viz. “We learn with pleasure from your Excellency’s communications of the proceedings of the State Convention, that their ratification of the Fœderal Constitution was not unconditional and without reserve, and we cannot but hope that their mode of ratification, and their circular letter, may be the happy means of bringing about the amendments proposed, and thereby of compleating and cementing the Union of these States, and of relieving the minds of a great part of the community from the anxious apprehensions of evils from the undefined powers of the new Government, much greater than they have ever experienced, or can be apprehended from the weakness and defects of the old one.” Debates arose upon the said proposed amendment, and Mr. President having put the question thereon, it passed in the negative in manner following, viz.

FOR THE NEGATIVE [11].

Mr. Philip Schuyler,	Mr. Fonda,	Mr. L’Hommedieu,
Mr. Douw,	Mr. Vanderbilt,	Mr. Duane,
Mr. Micheau,	Mr. Morris	Mr. Hoffman.
Mr. Peter Schuyler,	Mr. Roosevelt,	

FOR THE AFFIRMATIVE [8].

Mr. Yates,	Mr. Van Ness,	Mr. Tredwell,
Mr. Hopkins,	Mr. Swartwout,	Mr. Humfrey.
Mr. Williams,	Mr. Townsend,	

Mr. Tredwell, then moved to expunge the fifth paragraph, which was again read in the words following, viz. “Convinced Sir of the truth of the observation, ‘that no Government however constructed, can operate well, unless it possesses the confidence and good will of the great body of the People,’ we cannot but contemplate the adoption of the present system by so large a majority of the States, with the utmost satisfaction, as it affords a happy presage that it will experience ‘that confidence and good will,’ but since it is susceptible of salutary improvement, and as it is our inclination as well as duty to pursue every constitutional measure to ensure to the Government the greatest possible degree of such ‘confidence and good will,’ and as respect for the late Convention is an additional motive, we shall without hesitation recommend a submission of the system to a general Convention,” and to substitute the following in its stead, viz. “Convinced Sir of the truth of the observation, ‘that no Government however constructed can operate well, unless it possesses the confidence and good will of the body of the People,’ and considering the adoption of the present system by so large a proportion of the States with such earnest recommendations of amendments, and the total rejection of it by two,⁴ until amendments

take place, as a demonstration, that it cannot experience that ‘confidence and good will’ unless it undergoes many essential alterations and improvements; and esteeming ourselves bound to promote a measure so earnestly recommended by the Convention, and so anxiously desired by our constituents, your Excellency may rest assured, that we shall use our utmost endeavors to bring about an early revision of the system.” Debates arose upon the said proposed amendment, and Mr. President having put the question thereon, it passed in the negative in manner following, viz.

FOR THE NEGATIVE [11].

Mr. Philip Schuyler,	Mr. Fonda,	Mr. L’Hommedieu,
Mr. Douw,	Mr. Vanderbilt,	Mr. Duane,
Mr. Micheau,	Mr. Morris	Mr. Hoffman.
Mr. Peter Schuyler,	Mr. Roosevelt,	

FOR THE AFFIRMATIVE [8].

Mr. Yates,	Mr. Van Ness,	Mr. Tredwell,
Mr. Hopkins,	Mr. Swartwout,	Mr. Humfrey.
Mr. Williams,	Mr. Townsend,	

The four last paragraphs being then read, Mr. President put the question? Whether the Senate do agree to the said report, and it was carried in the affirmative in manner following, viz.

FOR THE AFFIRMATIVE [11].

Mr. Philip Schuyler,	Mr. Fonda,	Mr. L’Hommedieu,
Mr. Douw,	Mr. Vanderbilt,	Mr. Duane,
Mr. Micheau,	Mr. Morris	Mr. Hoffman.
Mr. Peter Schuyler,	Mr. Roosevelt,	

FOR THE NEGATIVE [8].

Mr. Yates,	Mr. Van Ness,	Mr. Tredwell,
Mr. Hopkins,	Mr. Swartwout,	Mr. Humfrey.
Mr. Williams,	Mr. Townsend,	

Thereupon, *Ordered*, That the said draft be engrossed.

Then the Senate adjourned until ten of the clock on Friday morning next.

1. Printed: *Senate Journal*, 14–16.

2. In 1786, the Confederation Congress twice asked Governor Clinton to call a special session of the legislature to reconsider New York’s adoption of the Impost of 1783. Congress had rejected New York’s ratification of the impost because the state’s restrictions on the measure were unacceptable to Congress. Governor Clinton refused to call a special session of the legislature, saying that there was no emergency to do so as required by the state’s constitution. Clinton’s opponents strongly criticized him for not calling the special session.

3. The Constitution (Article I, Section 1, paragraph 2) provides that state legislatures can decide how presidential electors are to be elected. The New York legislature could not agree whether the electors should be chosen by a joint ballot of the legislature or by each house voting separately followed by a compromise on the persons chosen. Because of this deadlock, New York did not elect presidential electors and the state did not vote in the first presidential election in which George Washington was elected.

4. A reference to Rhode Island's rejection of the Constitution in a statewide referendum and the North Carolina Convention's refusal to ratify the Constitution without previous amendments.

Senate Proceedings, Friday, 26 December 1788 (excerpts)¹

FRIDAY MORNING, December 26th, 1788.

The Senate met pursuant to adjournment.

PRESENT,

His Honor the Lieutenant-Governor, President [Pierre Van Cortlandt],

Mr. L'Hommedieu,	Mr. Hoffman,	Mr. Humfrey,
Mr. Swartwout,	Mr. Roosevelt,	Mr. Fonda,
Mr. Peter Schuyler,	Mr. Micheau,	Mr. Morris,
Mr. Tredwell,	Mr. Townsend,	Mr. Duane,
Mr. Hopkins,	Mr. Vanderbilt,	Mr. Philip Schuyler,
Mr. Yates,	Mr. Williams,	Mr. Douw.

The engrossed answer to His Excellency's speech was read and agreed to.

Ordered, That the same be signed by Mr. President, in behalf of the Senate.

Ordered, That Mr. Swartwout and Mr. Morris, wait on His Excellency the Governor, to know when and where, he will be pleased to receive the Senate with their answer to his Speech.

The Answer of the Senate to His Excellency's Speech is in the words following, viz.²

The Answer of the Senate of the State of New-York, to the Speech of His Excellency *George Clinton*, Esq. Governor of the said State, General and Commander in Chief of all the Militia, and Admiral of the Navy of the same.

SIR,

When we reflect on the embarrassments of our National Government, destitute of support or energy, exposed to insult from abroad, and submitting to it within our acknowledged limits, languishing under a disadvantageous foreign commerce, and totally deprived of a furr trade formerly so valuable, we cannot but contemplate the approaching change, as a great and most desireable blessing.

Under such an impression, we must think your Excellency fully justified in the exercise of your prerogative, in convening the Legislature

at an earlier day, than that prescribed by law, for the usual annual meeting.

If, in your Excellency's opinion, the public business had admitted thereof, we trust, you would have called us together at an earlier period, as we consider the appointment of electors, to supply the high confidential trust of President and Vice-President of the United States, the manner of which is not expressly defined, but left to the discretion of the respective Legislatures, to be of such magnitude, that if sufficient time had intervened for a general election, we should on our part, have referred it to the suffrages of the People at large, with the utmost satisfaction.

We receive with pleasure your Excellency's communications, of the proceedings of the State Convention, and consider their ratification of the Fœderal Constitution, as a happy means of cementing the Union, and of relieving the United States from the many evils they experienced, from the weakness and defects of their former confederation.

Convinced Sir, of the truth of the observation, "That no government, however constructed, can operate well, unless it possesses the confidence and good will of the great body of the People," we cannot but contemplate the adoption of the present system, by so large a majority of the States, with the utmost satisfaction, as it affords a happy presage, that it will experience that "confidence and good will," but since it is susceptible of salutary improvement, and as it is our inclination as well as duty, to pursue every constitutional measure, to ensure to the government, the greatest possible degree of such "confidence and good will," and as respect for the late Convention is an additional motive, we shall without hesitation, recommend a submission of the system, to a general Convention.

Negotiations with a people who can hardly be said to have any system of government, must ever be attended with embarrassments, and we are sensible that your Excellency, and the other Gentlemen Commissioners, have experienced many in the late treaties with the Indians. It affords us satisfaction, that they have been surmounted in a manner so much to the interest of the State, and that they have been conducted with proper œconomy; and, be assured, Sir, that our endeavors shall be exerted to make provision for a faithful observance of the compacts entered into during these negotiations.

The requisitions of the United States in Congress, for the federal services of the present year, together with such other communications relative to the general concerns of the Union, laid before us by your Excellency, will receive an early attention.

As we are fully in sentiment with your Excellency, that the reduction of the debt, and advancement of the credit of the State, are concerns of the first importance to its weal and interest, we shall bestow an attention on those subjects equal to their importance.

The pursuit of measures tending to promote the agriculture of the State, and the introduction and encouragement of the useful arts are so essential to the prosperity of our country, that we shall propose, or cheerfully concur in every arrangement which promises to extend the one or to promote the other.

By order of the Senate,

PIERRE VAN CORTLANDT, PRESIDENT.

Senate-Chamber, December 26th, 1788.

Mr. Swartwout reported, that Mr. Morris and himself had, agreeable to the order of the Senate, waited on His Excellency the Governor, when he was pleased to appoint one of the clock this day, at his chamber, to receive the Senate, with their answer to his Speech. . . .

Mr. President then left the chair, and with the members of the Senate, waited on His Excellency the Governor, with their answer to his speech, and being returned, he reassumed the chair, and informed the Senate, that upon his delivering their answer, His Excellency was pleased to make a reply, of which he had obtained a copy, which was read in the words following, viz.³

Gentlemen,

On this occasion it would be improper to make any animadversions, either, on the cause which induced to a change of our present system of Fœderal Government, on the merits of the new Constitution; or on the consequences, which may result from its adoption. Nor is it my province to determine how far the ideas contained in your answer will tend to facilitate the attainment of the objects so earnestly recommended by our Convention.—It is sufficient to observe that, in submitting their proceedings to the Legislature, I have discharged my duty by faithfully communicating the sentiments and wishes of the Convention, which, it is to be presumed, are consonant to the will of our Constituents.

Gentlemen,

I regret that the Legislature could not have been convened at so early a period as to have afforded time to have made and carried into effect the arrangements necessary for appointing electors, in the manner which it seems you would have preferred; but, since this was impracticable, you will, I am persuaded, perceive the propriety of pursuing your principle, as far as circumstances will permit, and of adopting such mode of appointment, as shall appear most nearly to approach an election by the People.

Permit me to assure you, that your expressions of regard for the rights of the People, and of zeal for the public welfare, are highly pleasing to me, and that nothing will give me greater satisfaction than to find this laudable spirit manifested in all your conduct.

GEO. CLINTON.

Albany, 26th December, 1788.

A message from His Excellency the Governor (by his private Secretary) was received and read in the words following, viz.⁴

Gentlemen,

I have the honor of transmitting you with this message, a letter from the Honorable Beverley Randolph, Esq. Lieutenant-Governor of the State of Virginia, dated the 2d. December instant, covering a letter and certain papers from the General Assembly of that State.

It is at their request I take the earliest opportunity of making this communication to the Legislature; and, I do it with the greater pleasure, from the persuasion, that it will give you satisfaction to find a State, so respectable for wisdom and patriotism, perfectly concurring in sentiment with our Convention respecting the necessity of amendments to the new system of General Government, and the means of obtaining them.

GEO. CLINTON.

Albany, 26th December, 1788.

The letter from the Honorable Beverley Randolph, Esquire, Lieutenant-Governor, and the letter and papers from the General Assembly of the State of Virginia, accompanying his Excellency's message, were also read. Thereupon,

Ordered, That his Excellency's message, and the letter and papers accompanying the same, be committed to a committee of the whole, to whom his Excellency's speech was committed.

Then the Senate adjourned until ten of the clock to-morrow morning.

1. Printed: *Senate Journal*, 16–18.

2. The Senate's response to Clinton's speech was printed in the New York *Daily Advertiser* and the New York *Daily Gazette* on 2 January 1789, and reprinted ten times by 29 January: Mass. (2), R.I. (3), N.Y. (2), Pa. (2), Va. (1).

3. A manuscript copy of Clinton's response is in the Clinton Papers at the New-York Historical Society. Clinton's response was printed in the New York *Daily Advertiser* and the New York *Daily Gazette* on 2 January 1789, and reprinted eight times by 29 January: Mass. (2), R.I. (2), N.Y. (2), Pa. (2).

4. Governor Clinton's message and its commitment to an Assembly committee was reported in New York *Daily Gazette*, 2 January 1789, and reprinted in the *Pennsylvania Packet*, 9 January, and the Philadelphia *Independent Gazetteer*, 10 January.

Assembly Proceedings, Saturday, 27 December 1788¹

A message from His Excellency the Governor, to the Legislature, transmitted to this House, by the Honorable the Senate, was read, and is in the words following, viz.

[Here appears Governor Clinton's message of 26 December transmitting Lt. Governor Randolph's letter of 2 December and its accompanying documents (see immediately above).]

The letter from the Honorable Beverly Randolph, Esquire, and the letter and papers from the General Assembly of the State of Virginia, which accompanied the said message of His Excellency the Governor, were read, and ordered to be entered on the Journal of this House, and are in the words following, viz.

“TO HIS EXCELLENCY the GOVERNOR of the State of New-York.

In COUNCIL, December 2d, 1788.

Sir, I have the honor to enclose to your Excellency, a letter from the General Assembly of this State, covering copies of their circular letter to the several states, and of their application to the Congress of the United States; which enclosures I request the favor of you to lay before the Legislature of your State, as early as possible.

I have the honor to be, With great respect, Your Excellency's most obedient servant.

BEVERLY RANDOLPH[']

[Here appear two letters from the Virginia General Assembly dated 20 November 1788 requesting that Congress call a second constitutional convention and a circular to the states covering the letter to Congress. See BoR, I, 177–78.]

Ordered, That the said message of His Excellency the Governor, and the several letters and papers which accompanied the same, be committed to the committee of this House, appointed to prepare a draft of an application of the Legislature of this State, to Congress, requesting them as early as possible to call a Convention, for proposing amendments to the Constitution of the United States.

1. Printed: *Assembly Journal*, 24–26.

Assembly Proceedings, Thursday, 29 January 1789¹

Mr. Jones from the committee appointed on the 22d. day of December last, to report an application to be made to the Congress of the United States, in the name and behalf of the Legislature of this State, for calling a Convention to revise the Constitution ratified by the Con-

vention of this State, on the 26th. day of July last, brought in the report of the said committee,² which was read, and is in the words following, viz.

“*Resolved*, (if the Honorable the Senate concur herein,) That an application be made to the Congress of the United States of America, in the name and behalf of the Legislature of this State, in the words following, to wit;”

“The People of the State of New-York having ratified the Constitution, agreed to the seventeenth day of September, in the year of our Lord one thousand, seven hundred and eighty-seven, by the Convention then assembled at Philadelphia, in the State of Pennsylvania, as explained by the said ratification, in the fullest confidence of obtaining a revision of several articles of the said Constitution, by a General Convention. In compliance therefore with the unanimous sense of the Convention of this State, who all united in opinion, that such a revision was necessary to recommend the said Constitution to the approbation and support of a numerous body of their constituents, and a majority of whom conceived the Constitution so exceptionable, that nothing but such confidence, and an invincible reluctance to separate from our sister States, could have prevailed upon a sufficient number to assent to it, without stipulating for previous amendments; and from a conviction that the apprehensions and discontents which those articles occasion, cannot be removed or allayed, unless an act to revise the said Constitution be among the first that shall be passed by the new Congress: WE, the Legislature of the State of New-York, DO, in behalf of our constituents, in the most earnest and solemn manner, make this application to the Congress, that a Convention of Deputies from the several States be immediately called, with full power to take the said Constitution into their consideration, and to report such amendments thereto, as they shall find best suited to promote our common interests, and secure to ourselves and our latest posterity, the great and unalienable rights of mankind.”

1. Printed: *Assembly Journal*, 88–89. The draft resolution was printed in the *New Jersey Brunswick Gazette* on 29 February with a prefatory paragraph stating: “We are informed, that part of the house of assembly have it in contemplation to write a circular letter to the several states on the subject of amendments to the federal constitution. This, it is said, the senate will not agree to.”

2. An excerpt of this paragraph was printed in the *Albany Gazette*, 6 February; *New York Daily Advertiser*, 16 February; and *New York Morning Post*, 18 February.

Assembly Proceedings, Saturday, 2 February 1789¹

Mr. Webster, from the committee of the whole House, on the report of the committee appointed to prepare a draft of an application of the

Legislature of this State, to the Congress of the United States of America, to call a Convention for revising the Constitution for the said United States of America, adopted by the Convention of this State, on the 26th day of July last, reported, that the said committee of the whole House had made some progress in the said report, and had directed him to move for leave to sit again.

Ordered, That the said committee of the whole House have leave to sit again.

1. Printed: *Assembly Journal*, 98.

Assembly Proceedings, Monday, 4 February 1789¹

Mr. Webster, from the committee of the whole House, on the report of the committee appointed on the twenty-second day of December last, to prepare a draft of an application of the Legislature of this State, to the Congress of the United States of America, to call a Convention for revising the Constitution for the said United States, adopted by the Convention of this State, on the 26th day of July last, reported, that after the said report of the committee, as entered on the journal of this House on the 29th ultimo, had been read, and debates had thereon, Mr. B. Livingston made a motion that the same should be rejected, and a resolution substituted in its stead, in the words following, viz.

Resolved, (if the Honorable the Senate concur herein) That an application be made to the Congress of the United States of America, in the name and behalf of the Legislature of this State, in the words following, to wit:

Whereas, the Convention of the good People of the State of New-York, on the 26th day of July last past, assented to and ratified the Constitution proposed on the 17th day of September, in the year of our Lord 1787, by the Convention then assembled at Philadelphia, in confidence nevertheless, "that the amendments which might be proposed to the said Constitution would receive an early and mature consideration["]; And whereas the said Convention, at the same time agreed to sundry amendments, and in the name and behalf of their Constituents, enjoined it upon their Representatives in Congress, to exert all their influence, to obtain a ratification of the same, in "the manner prescribed in the said Constitution:" Therefore, we the Representatives of the People of the State of New-York, in Senate and Assembly convened, in compliance with the sense of our Convention, and anxious that the necessary amendments may be introduced as soon as possible, do earnestly and in the most solemn manner, call upon the Congress of the United States, to take the amendments recommended

by our Convention, and by those of our sister States, into their “early and mature consideration,” and to take effectual measures to obtain a ratification of such of them, as may be deemed necessary to induce a general confidence in the Government; either by proposing the same to the Legislatures of the different States, or by calling a Convention to meet at a period not far remote, agreeable to the manner prescribed by the fifth article of the Constitution aforesaid, as the one or the other mode of ratification may to them appear best calculated to promote the peace and welfare of the Union.

That debates ensued on the resolution proposed by the motion of Mr. B. Livingston, and that the question having been put whether the committee did agree to the same, it passed in the negative, in the manner following, viz.

FOR THE NEGATIVE [43].

Mr. Jones,	Mr. Tearse,	Mr. Vandervoort,
Mr. Gilbert,	Mr. Savage,	Mr. Adgate,
Mr. G. Livingston,	Mr. M’Cracken,	Mr. Harper,
Mr. Kortz,	Mr. Thompson,	Mr. Havens,
Mr. Frey,	Mr. Bay,	Mr. Rockwell,
Mr. Stauring,	Mr. Schoonmaker,	Mr. Schenck,
Mr. SPEAKER,	Mr. Tappen,	Mr. Akins,
Mr. J. Van Rensselaer,	Mr. Griffen,	Mr. E. Clark,
Mr. Harison,	Mr. Carpenter,	Mr. Patterson,
Mr. Hoffman,	Mr. J. Smith,	Mr. Scudder,
Mr. Veeder,	Mr. Low,	Mr. Gardiner,
Mr. Winn,	Mr. Bancker,	Mr. Cantine,
Mr. H. Van Rensselaer,	Mr. D’Witt,	Mr. Bloom,
Mr. Younglove,	Mr. Wisner,	Mr. Smith
Mr. Duncan,		

FOR THE AFFIRMATIVE [9].

Mr. B. Livingston,	Mr. Watts,	Mr. Cornwell,
Mr. Seaman,	Mr. Horton,	Mr. Giles,
Mr. Barker,	Mr. Verplanck,	Mr. Macomb

That the first paragraph of the said draft of an application to Congress, being again read, is in the words following, viz.

THE PEOPLE OF THE STATE OF NEW-YORK, having ratified the Constitution agreed to on the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, by the Convention then assembled at Philadelphia, in the State of Pennsylvania, as explained by the said ratification, in the fullest confidence of ob-

taining a revision of the several articles of the said Constitution, by a general Convention.

That the said paragraph having been read, *Mr. Speaker* made a motion that an addition be made to the said paragraph, in the words following, viz.

“And in confidence, that certain powers in and by the said Constitution granted would not be exercised until such revision should have taken place.”

That the question having been put whether the House did concur in the amendment proposed by the motion of *Mr. Speaker*, it was carried in the affirmative, in the manner following, viz.

FOR THE AFFIRMATIVE [32].

Mr. Jones,	Mr. Tearse,	Mr. Harper,
Mr. Carman,	Mr. Savage,	Mr. Havens,
Mr. G. Livingston,	Mr. M'Cracken,	Mr. Schenck,
Mr. Kortz,	Mr. Bay,	Mr. Akins,
Mr. Frey,	Mr. Schoonmaker,	Mr. E. Clark,
Mr. Stauring,	Mr. Tappen,	Mr. Patterson,
Mr. SPEAKER,	Mr. Carpenter,	Mr. Scudder,
Mr. J. Van Rensselaer,	Mr. J. Smith,	Mr. Cantine,
Mr. Veeder,	Mr. D'Witt,	Mr. Bloom,
Mr. Winn,	Mr. Wisner,	Mr. Smith.
Mr. Duncan,	Mr. Adgate,	

FOR THE AFFIRMATIVE [19].

Mr. B. Livingston,	Mr. Watts,	Mr. Rockwell,
Mr. Gilbert,	Mr. Livingston,	Mr. Verplanck,
Mr. Seaman,	Mr. Horton,	Mr. Cornwell,
Mr. Barker,	Mr. Low,	Mr. Giles,
Mr. Harison,	Mr. Bancker,	Mr. Gardiner,
Mr. Hoffman,	Mr. Vandervoort,	Mr. Macomb.
Mr. H. Van Rensselaer,		

That the committee had made further progress in the said draft of an application to the Congress of the United States, and had directed him to move for leave to sit again.

Ordered, That the said committee have leave to sit again.

1. Printed: *Assembly Journal*, 101–2. For the debates in the Assembly on this day, see RCS:N.Y., 2516–28.

Assembly Proceedings, Tuesday, 5 February 1789¹

Mr. Webster, from the committee of the whole House, on the draft of an application by the Legislature of this State to the Congress of the

United States of America, to call a Convention for revising the Constitution for the said United States, adopted by the Convention of this State, on the 26th day of July last, reported, that after the said draft had been this day read in the committee, a paragraph thereof was again read, in the words following, viz.

“We, the Legislature of the State of New-York, do, in behalf of our Constituents in the most earnest and solemn manner, make this application to the Congress, the Convention of Deputies from the several States be immediately called, with full powers to take the said Constitution into their consideration, and to propose such amendments thereto, as they shall find best calculated to promote our common interests, and secure to ourselves and our latest posterity, the great and unalienable rights of mankind.”

That the said paragraph having been read, Mr. Livingston made a motion, that the word *immediately* be obliterated, and the words *at a period not far remote*, inserted after the word *called*.

That the question having been put, whether the committee did agree to the amendment proposed by the motion of Mr. Livingston, it passed in the negative in the manner following, viz.

FOR THE NEGATIVE [33].

Mr. Jones,	Mr. Tearse,	Mr. Adgate,
Mr. G. Livingston,	Mr. Savage,	Mr. Harper,
Mr. Kortz,	Mr. M'Cracken,	Mr. Havens,
Mr. Frey,	Mr. Thompson,	Mr. Schenck,
Mr. Stauring,	Mr. Bay,	Mr. Akins,
Mr. SPEAKER,	Mr. Schoonmaker,	Mr. E. Clark,
Mr. Van Dyck,	Mr. Tappen,	Mr. Patterson,
Mr. J. Van Rensselaer,	Mr. Carpenter,	Mr. Scudder,
Mr. Veeder,	Mr. J. Smith,	Mr. Cantine,
Mr. Winn,	Mr. D'Witt,	Mr. Bloom,
Mr. Duncan,	Mr. Wisner,	Mr. Smith.

FOR THE AFFIRMATIVE [18].

Mr. Carman,	Mr. Watts,	Mr. Rockwell,
Mr. B. Livingston,	Mr. Livingston,	Mr. Verplanck,
Mr. Gilbert,	Mr. Horton,	Mr. Cornwell,
Mr. Seaman,	Mr. Low,	Mr. Giles,
Mr. Harison,	Mr. Bancker,	Mr. Gardiner,
Mr. Hoffman,	Mr. Vandervoort,	Mr. Macomb.

That Mr. Macomb then made a motion, that the word *immediately* be obliterated, and the words *as early as possible*, inserted after the word *called*.

That the question having been put, whether the committee did agree to the amendment proposed by the motion of Mr. Macomb, it was carried in the affirmative, in the manner following, viz.

FOR THE AFFIRMATIVE [28].

Mr. Jones	Mr. Livingston,	Mr. Schenck,
Mr. Carman,	Mr. Horton,	Mr. Cornwell,
Mr. Gilbert,	Mr. Mr. Tappen,	Mr. Giles,
Mr. Seaman,	Mr. J. Smith,	Mr. Gardiner,
Mr. Kortz,	Mr. Low,	Mr. Macomb,
Mr. Stauring,	Mr. Bancker,	Mr. Cantine,
Mr. Harison,	Mr. Vandervoort,	Mr. Smith,
Mr. Hoffman,	Mr. Havens,	Mr. Watts,
Mr. Savage,	Mr. Verplanck,	Mr. B. Livingston.
Mr. Thompson,		

FOR THE NEGATIVE [21].

Mr. G. Livingston,	Mr. Duncan,	Mr. Adgate,
Mr. Frey,	Mr. M'Cracken,	Mr. Harper,
Mr. SPEAKER,	Mr. Bay,	Mr. Akins,
Mr. Van Dyck,	Mr. Schoonmaker,	Mr. E. Clark,
Mr. J. Van Rensselaer,	Mr. Carpenter,	Mr. Patterson,
Mr. Veeder,	Mr. D'Witt,	Mr. Scudder,
Mr. Winn,	Mr. Wisner,	Mr. Bloom.

That Mr. Livingston then made a motion for an amendment, to obliterate the words *the said Constitution*, and instead thereof to insert the words, *amendments proposed by this or the other States*, whereby that part of the said paragraph, would be in the words following, viz.

“We, the Legislature of the State of New-York, do, in behalf of our Constituents, in the most earnest and solemn manner, make this application to the Congress that a Convention of Deputies from the several States be called as early as possible, with full powers to take *the amendments proposed by this or other States*, into their consideration.”

That the question having been put, whether the committee did agree to the amendment proposed by the motion of Mr. Livingston, it passed in the negative, in the manner following, viz.

FOR THE NEGATIVE [37].

Mr. Jones,	Mr. M'Cracken,	Mr. Harper,
Mr. Carman,	Mr. Thompson,	Mr. Havens,
Mr. G. Livingston,	Mr. Bay,	Mr. Schenck,
Mr. Kortz,	Mr. Schoonmaker,	Mr. Akins,
Mr. Frey,	Mr. Tappen,	Mr. E. Clark,
Mr. SPEAKER,	Mr. Carpenter,	Mr. Patterson,
Mr. Van Dyck,	Mr. J. Smith,	Mr. Scudder,
Mr. J. Van Rensselaer,	Mr. Bancker,	Mr. Gardiner,
Mr. Harison,	Mr. D'Witt,	Mr. Macomb,
Mr. Hoffman,	Mr. Wisner,	Mr. Cantine,
Mr. Veeder,	Mr. Vandervoort,	Mr. Bloom,
Mr. Winn,	Mr. Adgate,	Mr. Smith.
Mr. Savage,		

FOR THE AFFIRMATIVE [10].

Mr. B. Livingston,	Mr. Duncan,	Mr. Low,
Mr. Gilbert,	Mr. Watts,	Mr. Verplanck,
Mr. Seaman,	Mr. Livingston,	Mr. Giles.
Mr. H. Van Rensselaer,		

That the resolution and application reported by the committee appointed for that purpose, being amended, is in the words following, viz.

“*Resolved*, (if the Honorable the Senate concur therein) that an application be made to the Congress of the United States of America, in the name and behalf of the Legislature of this, in the words following, to wit:

THE PEOPLE OF THE STATE OF NEW YORK, having ratified the Constitution agreed to on the seventeenth day of September, in the year of our Lord, 1787, by the Convention then assembled at Philadelphia, in the State of Pennsylvania, as explained by the said ratification, in the fullest confidence of obtaining a revision of the said Constitution, by a General Convention; and in confidence that certain powers in and by said Constitution granted, would not be exercised, until a Convention should have been called and convened, for proposing amendments to the said Constitution. In compliance therefore, with the unanimous sense of the Convention of this State,² who all united in opinion, that such a revision was necessary to recommend the said Constitution, to the approbation and support of a numerous body of their Constituents: and a majority of the members of which, conceived several articles of the Constitution so exceptionable, that nothing but such confidence, and an invincible reluctance to separate from our sister States, could

have prevailed upon a sufficient number to assent to it, without stipulating for previous amendments: And from a conviction, that the apprehensions and discontents which those articles occasion, cannot be removed or allayed, unless an act to revise the said Constitution be among the first that shall be passed by the new Congress: WE, *the Legislature of the State of New York*, DO, in the behalf of our Constituents, in the *most earnest and solemn manner*, make this application to the Congress, that a Convention of Deputies from the several States be called as early as possible, with full powers to take the said Constitution into their consideration, and to propose such amendments thereto, as they shall find best calculated to promote our common interests, and secure to ourselves and our latest posterity, the great and unalienable rights of mankind.”

That the said resolution and application having been read, the question was put whether the committee did agree to the same, and that it was carried in the affirmative, in the manner following, viz.

FOR THE AFFIRMATIVE [43].

Mr. Jones,	Mr. Savage,	Mr. Vandervoort,
Mr. Carman,	Mr. M'Cracken,	Mr. Adgate,
Mr. Gilbert,	Mr. Thompson,	Mr. Harper,
Mr. G. Livingston,	Mr. Livingston,	Mr. Havens,
Mr. Kortz,	Mr. Bay,	Mr. Rockwell,
Mr. Frey,	Mr. Schoonmaker,	Mr. Schenck,
Mr. Stauring,	Mr. Horton,	Mr. Akins,
Mr. SPEAKER,	Mr. Tappen,	Mr. E. Clark,
Mr. Van Dyck,	Mr. Carpenter	Mr. Patterson,
Mr. J. Van Rensselaer,	Mr. J. Smith,	Mr. Scudder,
Mr. Harison,	Mr. Low,	Mr. Gardiner,
Mr. Hoffman,	Mr. Bancker,	Mr. Cantine,
Mr. Veeder,	Mr. D'Witt,	Mr. Bloom,
Mr. Winn,	Mr. Wisner,	Mr. Smith.
Mr. Duncan,		

FOR THE NEGATIVE [8].

Mr. B. Livingston,	Mr. H. Van Rensselaer,	Mr. Giles,
Mr. Seaman,	Mr. Watts,	Mr. Macomb.
Mr. Barker,	Mr. Verplanck,	

That it was thereupon *Resolved*, that the committee did agree to the said resolution and application, which he was directed to report to the House; and he read the report in his place, and delivered the said draft of a resolution and application in at the table; where the same were again read, and agreed to by the House. Thereupon,

Resolved, (if the Honorable the Senate concur therein) That an application be made to the Congress of the United States of America, in the name and behalf of the Legislature of this State, in the words following, to wit:

[Here appears the resolution as printed earlier in the Assembly Journal for 5 February, with only minor typographical differences.]

Ordered, That Mr. Jones and Mr. Carman deliver a copy of the preceding resolution, to the Honorable the Senate.

1. Printed: *Assembly Journal*, 104–6.

2. The vote on ratification of the Constitution in the New York Convention was 30 to 27. In order to obtain enough Antifederalist votes to ratify the Constitution, Federalist delegates were required to vote in favor of the Convention's circular letter advocating the call of a second constitutional convention. The vote on the circular letter was unanimous. The word "unanimous" was italicized in the final version of the resolution printed in the Assembly Journal later on 5 February.

Senate Proceedings, Tuesday, 5 February 1789¹

A message from the Honorable the Assembly, by Mr. Jones and Mr. Carman, was received with the following resolution for concurrence, which was read, viz.

State of New-York, in Assembly, February 5th. 1789.

[Here appears the Assembly's Resolution of 5 February requesting Congress to call a second constitutional convention.] Thereupon,

Ordered, That the consideration of the said resolution be postponed.

1. Printed: *Senate Journal*, 53–54.

Senate Proceedings, Thursday, 7 February 1789¹

The Senate proceeded to the consideration of the resolution from the Honorable the Assembly, of the 5th instant, respecting an application to Congress, to call a Convention for the purpose of considering the amendments proposed to the new Constitution. Debates arose thereon, and Mr. President having put the question, whether the Senate do concur with the Honorable the Assembly, in their said resolution, it was carried in the affirmative, by all the Members present, excepting *Mr. Douw* and *Mr. Lawrance*.

Thereupon, *Resolved*, That the Senate do concur with the Honorable the Assembly, in their said resolution.

Ordered, That Mr. Tredwell and Mr. L'Hommedieu, deliver a copy of the preceding concurrent resolution to the Honorable the Assembly.

1. Printed: *Senate Journal*, 56. The members present were the lieutenant-governor and president (Pierre Van Cortlandt) and Messrs. Tredwell, Williams, Swartwout, Hopkins,

Vanderbilt, Duane, Fonda, Mischeau, Hathorn, Roosevelt, Peter Schuyler, Hoffman, Yates, Van Ness, Clinton, Humfrey, Townsend, Philip Schuyler, Morris, L'Hommedieu, Douw, and Lawrance (*Ibid.*, 53, 54, 55). Hence the resolution passed 21 yeas to 2 nays.

Assembly Proceedings, Thursday, 7 February 1789¹

A copy of a resolution of the Honorable the Senate, delivered by Mr. Tredwell and Mr. L'Hommedieu, was read, concurring with this House in their resolution, and an application of the Legislature (as inserted in the journal of this House on the fifth day of February instant,) to the Congress of the United States of America, that a Convention of Deputies be called, for a revision of the Constitution of the said United States.

1. Printed: *Assembly Journal*, 108.

New York General Assembly Resolution Calling a Second Convention 7 February 1789¹

[For the text of the General Assembly's resolution, see Assembly Proceedings, 5 February (above).]

1. Printed in the New York *Daily Advertiser* on 12 February and reprinted in twenty-seven other newspapers by 28 November 1789: N.H. (1), Mass. (4), R.I. (2), Conn. (3), N.Y. (6), N.J. (1), Pa. (3), Md. (3), Va. (3), N.C. (1), Ga. (1). A one-paragraph summary was printed in the Lansingburgh, N.Y. *Federal Herald*, 16 February, and reprinted in the *Pennsylvania Journal*, 14 March. Manuscript copies of this resolution have been located in the Executive Communications, Virginia State Library, and in the South Carolina Archives.

Assembly Proceedings, Wednesday, 27 February 1789¹

Mr. Jones made a motion for a resolution, in the words following, viz.

Resolved, (if the Honorable the Senate concur herein,) That His Excellency the Governor be, and he is hereby requested to transmit to the Congress of the United States of America, the application made to them by the Legislature of this State, to call a Convention to take into consideration, the Constitution of the United States; and that His Excellency be, and he is also hereby requested to transmit copies of the said application, to the Executives of each of the States in the Union, in order to be communicated to the respective Legislatures of the said States.

Mr. B. Livingston made a motion, that the latter part of the resolution proposed by the motion of Mr. Jones, requesting His Excellency

the Governor to transmit copies of the said application, to the Executives of each of the States in the Union, should be obliterated.

The question being put on the motion of Mr. B. Livingston, it passed in the negative in the manner following, viz.

FOR THE NEGATIVE [28].

Mr. Jones,	Mr. Bay,	Mr. Adgate,
Mr. Carman,	Mr. Schoonmaker,	Mr. Harper,
Mr. G. Livingston,	Mr. Tappen,	Mr. Havens,
Mr. Stauring,	Mr. Griffen,	Mr. Schenck,
Mr. J. Van Rensselaer,	Mr. Carpenter,	Mr. Akins,
Mr. Winn,	Mr. J. Smith,	Mr. E. Clark,
Mr. Duncan,	Mr. Bancker,	Mr. Patterson,
Mr. Savage,	Mr. D'Witt,	Mr. Scudder,
Mr. M'Cracken,	Mr. Vandervoort,	Mr. Cantine.
Mr. Thompson,		

FOR THE AFFIRMATIVE [15].

Mr. B. Livingston,	Mr. Hoffman,	Mr. Rockwell,
Mr. Van Cortlandt,	Mr. Watts,	Mr. Verplanck,
Mr. Seaman,	Mr. Livingston,	Mr. Cornwell,
Mr. Barker,	Mr. Horton,	Mr. Giles,
Mr. Harison,	Mr. Low,	Mr. Sands.

Thereupon, *Resolved*, (if the Honorable the Senate concur herein) That His Excellency the Governor be, and he is hereby requested to transmit to the Congress of the United States of America, the application made to them by the Legislature of this State, to call a Convention, to take into consideration the Constitution of the United States; and that His Excellency be, and he is also hereby requested to transmit copies of the said application to the Executives of each of the States in the Union, in order to be communicated to the respective Legislatures of the said States.

Ordered, That Mr. Duncan and Mr. Stauring, deliver a copy of the last preceding resolution, to the Honorable the Senate.

1. Printed: *Assembly Journal*, 150. The first two paragraphs were paraphrased in the *New York Daily Advertiser*, 13 March.

Senate Proceedings, Tuesday, 3 March 1789¹

The Senate proceeded to the consideration of a resolution of the Honorable the Assembly, of the 27th instant, received by Mr. Duncan and Mr. Stauring, which was read in the words following, viz.

Resolved, (if the Honorable the Senate concur herein) that His Excellency the Governor be, and he is hereby requested to transmit to

the Congress of the United States of America, the application made to them by the Legislature of this State, to call a Convention to take into consideration the Constitution of the United States, and that His Excellency be, and he is also hereby requested to transmit copies of the said application to the executives of each of the States in the Union, in order to be communicated to the respective Legislatures of the said States.

Debates arose upon the said resolution; Mr. Yates moved that the Senate do concur with the Honorable the Assembly, in the same, and Mr. President having put the question thereon, it was carried in the affirmative, by all the members present excepting Mr. Vanderbilt and Mr. Lawrance. Thereupon,

Resolved, That the Senate do concur with the Honorable the Assembly, in their said resolution.

Ordered, That Mr. Williams and Mr. Swartwout, deliver copies of the two last preceding concurrent resolutions to the Honorable the Assembly.

1. Printed: *Senate Journal*, 85–86. The members present were the lieutenant-governor and president (Pierre Van Cortlandt) and Messrs. Micheau, Hopkins, Yates, Peter Schuyler, Swartwout, Philip Schuyler, Vanderbilt, Clinton, Tredwell, Roosevelt, Williams, Townsend, Lawrance, Van Ness, Hoffman, Hathorn, Douw, Duane, Fonda, Humfrey, Morris, and L’Hommedieu. Hence the resolution passed seventeen yeas to two nays (*Ibid.*, 82).

Assembly Proceedings, Tuesday, 3 March 1789 (excerpt)¹

Copies of three resolutions of the Honorable the Senate, delivered by Mr. Williams and Mr. Swartwout, were read.

By the first of the said resolutions, the Senate concur with this House in their resolution of the 27th ult. that His Excellency the Governor be requested to transmit to the Congress of the United States of America, and to the Executives of each of the States respectively, to be communicated to the respective Legislatures of the States, the application made by the Legislature of this State, to call a Convention, to take into consideration the Constitution of the United States: . . .

1. Printed: *Assembly Journal*, 161–62.

Governor George Clinton to the Several State Governors New York, 5 May 1789¹

Pursuant to a concurrent Resolution of the Senate and Assembly I have the Honor to transmit, inclosed, to your Excellency the Application of our Legislature in Behalf of their Constituents to the Congress on the Subject of Amendments to the Constitution of the United States.

And I have to request that you will be pleased to communicate the same to your Legislature.

I have the Honor to be with the highest Respect and Esteem

1. Copy, South Carolina Archives. Manuscript copies of the New York General Assembly's resolution of 5–7 February requesting Congress to call a second constitutional convention enclosed in Governor Clinton's letter of 5 May have been found in the South Carolina Archives and the Virginia State Library.

U.S. House of Representatives Receives New York Resolution Tuesday, 6 May 1789¹

Mr. [John] Lawrence introduced the application to Congress of the State of New-York for calling a new Convention, which being read, was ordered to be entered at length on the minutes, and the original deposited on the files of the House.

1. Printed: *Congressional Register*, I, 225. Two similar reports appeared in the *New York Daily Gazette*, 7 May, and the *Gazette of the United States*, 6–9 May. The *Daily Gazette* item was reprinted eleven times by 21 May: N.H. (1), Mass. (4), N.Y. (3), Pa. (3). The *Gazette of the United States* report was reprinted once each in Connecticut, New York, and Virginia by 3 June.

VIII.
STATE PROPOSED AMENDMENTS TO THE
CONSTITUTION BY STATE RATIFYING
CONVENTIONS, 1787–1790

Introduction

Article V of the Constitution provides for the process of proposing and adopting amendments to the Constitution. Nothing in the Constitution prohibited the consideration or proposal of amendments by the state ratifying conventions. Federalists, however, argued that state conventions should not and could not propose amendments and that the entire Constitution en masse needed to be either ratified or rejected. Much of the debate over ratifying the Constitution centered on the issue when amendments should be considered—before ratification or after the Constitution was adopted and implemented—and the issue of how amendments would be proposed by either Congress or a second constitutional convention.

Antifederalists in the Pennsylvania ratifying convention (the first convention to sit) proposed amendments to the Constitution that they wanted the people to consider while the Convention recessed. Federalists, however, rejected this proposal and would not allow the amendments to appear on the Convention journal. Antifederalists published the amendments as part of the Dissent of the Minority of the Pennsylvania Convention that was printed and circulated widely as a broadside and in newspapers.

No amendments were proposed from the first five state conventions (Pennsylvania, Delaware, New Jersey, Georgia, and Connecticut). After three weeks of debate in the Massachusetts Convention, the sixth convention to sit, Federalists realized that the Constitution would be rejected without amendments. Consequently Federalists proposed a new method of ratification in which the Convention would ratify the Constitution unconditionally, but with recommendatory amendments that would be proposed in the first federal Congress according to Article V of the Constitution. With this proposal and nine recommendatory amendments, the Massachusetts Convention narrowly ratified the Constitution. Six of the remaining seven states followed Massachusetts' example in proposing recommendatory amendments. Only the Maryland Convention, against the wishes of a vocal minority of Antifederalists, refused to approve recommendatory amendments.

All totaled 292 amendments were proposed. Eliminating duplicates, 102 individual amendments were recommended. Starting with the Virginia Convention, the amendments were divided into two lists—one that included rights-type amendments and another that listed structural changes to the Constitution. James Madison used the rights-type amendments when he prepared the amendments that he submitted to the U.S. House of Representatives in June 1789.

In the fall of 1788, Augustine Davis, the printer of the *Virginia Independent Chronicle* and the postmaster of Richmond, published a thirty-two page pamphlet entitled *The Ratification of the New Fæderal Constitution, Together with the Amendments, Proposed by the Several States* (Evans 21529). After the title, Davis included a statement that “This Collection was made at the instance of several Gentlemen, who supposed, that it would be useful and acceptable to the Public, to be able to compare at once the sentiments of the different States together.” The pamphlet contains the forms of ratification of eight states along with their proposed amendments. In a prefatory statement, Davis indicated that he omitted the ratifications by Pennsylvania, Delaware, New Jersey, Georgia, and Connecticut “being unconditional, and not even proposing an amendment.” He naturally could not include the amendments proposed by the second North Carolina Convention that ratified the Constitution on 21 November 1789 and the Rhode Island Convention that ratified on 29 May 1790. Davis was probably encouraged to print the pamphlet at the urging of Edmund Randolph, a staunch advocate of a second general convention to consider amendments to the Constitution. Randolph wrote to James Madison on 12 September 1788 saying “I desired Davis to make a collection, of which the inclosed is a copy.” About a month later, on 17 October, Madison wrote to Thomas Jefferson, then serving as U.S. minister to France, enclosing a “little pamphlet” that provided “a collective view of the alterations which have been proposed for the new Constitution.” (Rutland, *Madison*, XI, 252, 297.)

Proposed Amendments by State Ratifying Conventions

Amendments Not Adopted

Proposed Amendments	Pa.	Mass.	Md.	S.C.	N.H.	Va.	N.Y.	N.C.	R.I.	Total number of states
GENERAL										
Separation of Powers	x					x		x	x	4
Treaties cannot violate federal law or U.S. or state constitutions	x		x				x	x		4
No titles of nobility for U.S. officials from foreign state or king		x			x					2
U.S. officials are trustees and accountable to the people			x			x		x	x	4
Doctrine of non-resistance is absurd			x			x		x		3
No suspension of laws			x			x		x	x	4
No federal poll tax	x		x				x		x	4
No federal excise taxes	x		x				x			3
No standing army in peacetime without consent of super majority of congress	x		x		x	x	x	x	x	7
Military subordinate to civil power	x					x	x	x	x	5
Fish and hunt not prohibited on public lands	x									1
Limits on federal taxes	x		x							2
Elections should be free	x					x		x	x	4
Right of Revolution			x			x	x			3
President, Vice President or members of Congress must be natural-born citizens							x			1

Proposed Amendments by State Ratifying Conventions

Amendments Not Adopted (continued)

Proposed Amendments	Pa.	Mass.	Md.	S.C.	N.H.	Va.	N.Y.	N.C.	R.I.	Total number of states
Habeas corpus suspension to be limited							x			1
Amendments to Constitution need ratification by eleven original states									x	1
Slave trade to Africa must be stopped as soon as possible									x	1
Public offices not to be hereditary						x		x		2
Conscientious objectors exempted from military service			x			x		x	x	4
Enlistment of soldiers limited			x			x		x		3
Federal bankruptcy laws limited							x			1
Federal commissions to be given in name of the people							x			1
Federal laws cannot violate state constitutions or bills or rights			x							1

CONGRESS

No monopolies		x			x		x	x	x	5
No member to hold federal office			x			x	x	x		4
Not to interfere in federal elections	x	x	x	x	x	x	x	x	x	9
Restrictions in changing compensation for						x	x	x		3

Proposed Amendments by State Ratifying Conventions

Amendments Not Adopted (continued)

Proposed Amendments	Pa.	Mass.	Md.	S.C.	N.H.	Va.	N.Y.	N.C.	R.I.	Total number of states
Rights in Constitution not to extend Congress' powers						x	x	x	x	4
Ex post facto laws apply only to criminal cases							x			1
Congress can introduce foreign troops only by 2/3 vote								x		1
Congress not to interfere with paper money already in circulation								x	x	2
No draft into military									x	1
Borrowing money requires 2/3 vote of each house							x		x	2
Levy no direct taxes without approval of 3/4 state legislatures									x	1
Declaration of war needs 2/3 vote in each house							x		x	2
Right to give instructions to representatives						x	x	x	x	4
Journals of to be published at least annually						x	x	x	x	4
Appropriations must be published annually						x		x	x	3
Commercial acts need 2/3 approval			x			x		x		3
Congress control over federal capital limited						x	x	x		3

Proposed Amendments by State Ratifying Conventions

Amendments Not Adopted (continued)

Proposed Amendments	Pa.	Mass.	Md.	S.C.	N.H.	Va.	N.Y.	N.C.	R.I.	Total number of states
Yeas and Nays must be called on request of two members			x				x		x	3
Doors of both houses be open to public							x			1
Congress can set uniform rule of inhabitancy or settlement of poor in the states									x	1
Congress cannot grant exceptions from emoluments clause						x	x	x	x	4
Congress may give state courts jurisdiction in revenue cases			x							1
Congress should not appropriate funds for military beyond two years			x							1

SENATE

Senate not to try impeachments alone						x	x	x		3
Treaties ceding land or fishing and navigation rights need 3/4 approval of Senate						x		x		2
Vacancies in Senate to be filled by state legislatures							x			1
Senate terms limited to 6 years within 12 year period							x			1
Senators can be recalled by states							x		x	2

Proposed Amendments by State Ratifying Conventions

Amendments Not Adopted (continued)

Proposed Amendments	Pa.	Mass.	Md.	S.C.	N.H.	Va.	N.Y.	N.C.	R.I.	Total number of states
HOUSE OF REPRESENTATIVES										
Should be enlarged	x	x			x	x	x	x		6
Annual elections required	x									1
District elections not prohibited							x			1
PRESIDENT										
Pardoning power limited							x			1
Privy council	x		x							2
Election of must be held every four years							x			1
President limited to no more than 8 years within 16 years						x		x		2
President limited to two terms							x			1
President not to take command in field			x				x			2
JUDICIARY										
U.S. Judiciary jurisdiction limited	x	x	x			x	x	x	x	7
No appeal to Supreme Court in criminal cases			x				x			2
Criminal trials must be in vicinage	x		x			x	x	x	x	6
Evidence can be submitted in criminal cases	x		x			x			x	4

Proposed Amendments by State Ratifying Conventions

Amendments Not Adopted (continued)

Proposed Amendments	Pa.	Mass.	Md.	S.C.	N.H.	Va.	N.Y.	N.C.	R.I.	Total number of states
Federal officials must take oath not to violate state constitutions							x			1
Congress can only declare state in rebellion by 2/3 vote								x		1
Federal officials must not hold state offices									x	1
Federal duties will be placed in State's quota where raised			x							1
Census to determine proportional taxation		x			x	x	x	x		5

Pennsylvania

Amendments Submitted to the Pennsylvania Convention

12 December 1787¹

1. The right of conscience shall be held inviolable; and neither the legislative, executive nor judicial powers of the United States shall have authority to alter, abrogate, or infringe any part of the constitution of the several states, which provide for the preservation of liberty in matters of religion.

2. That in controversies respecting property, and in suits between man and man, trial by jury shall remain as heretofore, as well in the federal courts, as in those of the several states.

3. That in all capital and criminal prosecutions, a man has a right to demand the cause and nature of his accusation, as well in the federal courts, as in those of the several states; to be heard by himself and his counsel; to be confronted with the accusers and witnesses; to call for evidence in his favor, and a speedy trial by an impartial jury of his vicinage, without whose unanimous consent, he cannot be found guilty, nor can he be compelled to give evidence against himself; and that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

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

5. That warrants unsupported by evidence, whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his or their property, not particularly described, are grievous and oppressive, and shall not be granted either by the magistrates of the federal government or others.

6. That the people have a right to the freedom of speech, of writing and publishing their sentiments, therefore, the freedom of the press shall not be restrained by any law of the United States.

7. That the people have a right to bear arms for the defence of themselves and their own state, or the United States, or for the purpose of killing game; and no law shall be passed for disarming the people or any of them, unless for crimes committed, or real danger of public injury from individuals; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up: and that the military shall be kept under strict subordination to and be governed by the civil powers.

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

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

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

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

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

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

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

14. That the judiciary power of the United States shall be confined to cases affecting ambassadors, other public ministers and consuls; to cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states—between a state and citizens of different states—between citi-

zens claiming lands under grants of different states; and between a state or the citizens thereof and foreign states, and in criminal cases, to such only as are expressly enumerated in the constitution, & that the United States in Congress assembled, shall not have power to enact laws, which shall alter the laws of descents and distributions of the effects of deceased persons, the title of lands or goods, or the regulation of contracts in the individual states.

1. *Pennsylvania Packet*, 18 December 1787 (CC:353). Taken from “The Dissent of the Minority of the Pennsylvania Convention,” the Convention debates published by Alexander J. Dallas in the *Pennsylvania Herald*, 15 December.

Massachusetts

Massachusetts Form of Ratification, 6 February 1788¹

Commonwealth of Massachusetts.

In Convention of the delegates of the PEOPLE of the
Commonwealth of Massachusetts February 6th. 1788.

The Convention having impartially discussed, & fully considered The Constitution for the United States of America, reported to Congress by the Convention of Delegates from the United States of America, & submitted to us by a resolution of the General Court of the said Commonwealth, passed the twenty fifth day of October last past, & acknowledging with grateful hearts the goodness of the Supreme Ruler of the Universe in affording the People of the United States in the course of his providence an opportunity deliberately & peaceably without fraud or surprize of entering into an explicit & solemn Compact with each other by assenting to & ratifying a New Constitution in order to form a more perfect Union, establish Justice, insure Domestic tranquillity, provide for the common defence, promote the general welfare & secure the blessings of Liberty to themselves & their posterity; Do in the name & in behalf of the People of the Commonwealth of Massachusetts assent to & ratify the said Constitution for the United States of America.

And as it is the opinion of this Convention that certain amendments & alterations in the said Constitution would remove the fears & quiet the apprehensions of many of the good people of this Commonwealth & more effectually guard against an undue administration of the Federal Government, The Convention do therefore recommend that the following alterations & provisions be introduced into the said Constitution.

First, That it be explicitly declared that all Powers not expressly delegated by the aforesaid Constitution are reserved to the several States to be by them exercised.

Secondly, That there shall be one representative to every thirty thousand persons according to the Census mentioned in the Constitution until the whole number of the Representatives amounts to Two hundred.

Thirdly, That Congress do not exercise the powers vested in them by the fourth Section of the first article, but in cases when a State shall neglect or refuse to make the regulations therein mentioned or shall make regulations subversive of the rights of the People to a free & equal representation in Congress agreeably to the Constitution.

Fourthly, That Congress do not lay direct Taxes but when the Monies arising from the Impost & Excise are insufficient for the Publick exigencies nor then until Congress shall have first made a requisition upon the States to assess levy & pay their respective proportions of such Requisition agreeably to the Census fixed in the said Constitution, in such way & manner as the Legislature of the States shall think best, & in such case if any State shall neglect or refuse to pay its proportion pursuant to such requisition then Congress may assess & levy such State's proportion together with interest thereon at the rate of Six percent per annum from the time of payment prescribed in such requisition

Fifthly, That Congress erect no Company of Merchants with exclusive advantages of Commerce.

Sixthly, That no person shall be tried for any Crime by which he may incur an infamous punishment or loss of life until he be first indicted by a Grand Jury, except in such cases as may arise in the Government & regulation of the Land & Naval forces

Seventhly, The Supreme Judicial Federal Court shall have no jurisdiction of Causes between Citizens of different States unless the matter in dispute whether it concerns the realty or personalty be of the value of Three thousand dollars at the least nor shall the Federal Judicial Powers extend to any actions between Citizens of different States where the matter in dispute whether it concerns the Realty or Personalty is not of the value of Fifteen hundred dollars at the least.

Eighthly, In civil actions between Citizens of different States every issue of fact arising in Actions at common law shall be tried by a Jury if the parties or either of them request it.

Ninthly, Congress shall at no time consent that any Person holding an office of trust or profit under the United States shall accept of a title of Nobility or any other title or office from any King, Prince or Foreign State.

1. Engrossed MS, RG11, Certificates of Ratification, DNA. The dispatch book of Congress indicates that the Form of Ratification was received on 18 February. The Form of

Ratification was first printed in the *Massachusetts Gazette* on 8 February and reprinted in the February issues of the New York *American Magazine* and Philadelphia *American Museum*, and in twenty-seven newspapers by 17 May: N.H. (1), Mass. (8), R.I. (4), N.Y. (2), Pa. (6), Md. (3), Va. (3).

Maryland

Amendments Proposed by William Paca, 26 April 1788¹

Late last Night the following Particulars were delivered to the Editor, for Publication in this Day's Paper.

The Convention on Saturday last determined to ratify the proposed Plan of Federal Government, Yeas 63, Nays 11—and then appointed a Committee of Thirteen Members, to consider and report Amendments to be recommended to the People.—The following Amendments were proposed by a Member, and referred to the Committee, who are now sitting; and it is hoped that the great and essential Rights of the People will be declared and secured.

Proposed Amendments.

That it be declared that all Persons entrusted with the Legislative or Executive Powers of Government, are the Trustees and Servants of the Public, and as such accountable for their Conduct:

WHEREFORE, whenever the Ends of Government are perverted, and public Liberty manifestly endangered, and all other Means of Redress are ineffectual, the People may, and of right ought, to object to, reform the old, or establish a new Government—That the Doctrine of Non-resistance against arbitrary Power and Oppression is absurd, slavish, and destructive of the Good and Happiness of Mankind—That it be declared, That every Man hath a Right to petition the Legislature, for the Redress of Grievances, in a peaceable and orderly Manner—That in all criminal Prosecutions every Man hath a Right to be informed of the Accusation against him, to have a Copy of the Indictment or Charge in due Time (if required) to prepare for his Defence, to be allowed Council, to be confronted with the Witnesses against him, to have Process for his Witnesses, to examine the Witnesses for and against him, on Oath, and to a speedy Trial, by an impartial Jury.

That no Freeman ought to be taken, or imprisoned, or deprived of his Freehold, Liberties or Privileges, or outlawed or exiled, or in any manner destroyed, or deprived of his Life, Liberty or Property, but by the lawful Judgment of his Peers, or by the Law of the Land.

That no Power of suspending Laws, or the Execution of Laws, unless derived from the Legislature, ought to be exercised or allowed.

That all Warrants, without Oath, or Affirmation of a Person conscientiously scrupulous of taking an Oath, to search suspected Places, or to seize any Person, or his Property, are grievous and oppressive; and all General Warrants, to search suspected Places, or to apprehend any Person suspected, without naming or describing the Place or Person in special, are dangerous and ought not to be granted.

That there be no Appeal to the Supreme Court of Congress in a Criminal Case.

Congress shall have no Power to alter or change the Regulations respecting the Times, Places, or Manner of holding Elections for Senators or Representatives.

All Imposts and Duties laid by Congress, shall be placed to the Credit of the State in which the same be collected, and shall be deducted out of such State's Quota of the common or general Expences of Government.

No Member of Congress shall be eligible to any Office of Trust, or Profit, under Congress, during the Time for which he shall be chosen.

That there be no National Religion established by Law; but that all Persons be equally entitled to Protection in their religious Liberty.

That Congress shall not lay direct Taxes on Land, or other Property, without a previous Requisition of the respective Quotas of the States, and a failing, within a Limited Time, to comply therewith.

In all Cases of Trespasses, Torts, Abuses of Power, personal Wrongs and Injuries done on Land, or within the Body of a County, the Party injured shall be entitled to Trial by Jury, in the State where the Offence shall be committed; and the State Courts, in such Cases, shall have concurrent Jurisdiction with the Federal Courts; and there shall be no Appeal, excepting on Matter of Law.

That the Supreme Federal Court shall not admit of Fictions, to extend its Jurisdiction; nor shall Citizens of the same State, having Controversies with each other, be suffered to make collusive Assignments of their Rights, to Citizens of another State, for the Purpose of defeating the Jurisdiction of the State Courts; nor shall any Matter, or Question, already determined in the State Courts, be revived or agitated in the Federal Courts; that there be no Appeal from Law, or Fact, to the Supreme Court, where the Claim, or demand, does not exceed Three Hundred Pounds Sterling.

That no standing Army shall be kept up in Time of Peace, unless with the Consent of Three Fourths of the Members of each Branch of Congress: Nor shall Soldiers, in Time of Peace, be quartered upon private Houses, without the Consent of the Owners.

No Law of Congress, or Treaties, shall be effectual to repeal or abrogate the Constitutions, or Bill of Rights, of the States, or any of them, or any Part of the said Constitutions or Bills of Rights.

Militia not to be subject to the Rules of Congress, nor marched out of the State, without Consent of the Legislature of such State.

That Congress have no Power to lay a Poll-Tax.

That the People have a Right to Freedom of Speech, of writing and publishing their Sentiments, and therefore that the Freedom of the Press ought not to be restrained, and the Printing-Presses ought to be free to examine the Proceedings of Government, and the Conduct of its Officers.

That Congress shall exercise no Power, but what is expressly delegated by this Constitution.

That the President shall not command the Army, in Person, without the Consent of Congress.

True Extract from the Minutes of the Convention, of the State of Maryland,

WILLIAM HARWOOD, Clk. Con.

Done in Convention, April 26, 1788.

1. Paca's proposed amendments were printed in the *Maryland Journal* and the Baltimore *Maryland Gazette* on 29 April. The transcription printed here is taken from the *Maryland Journal's* account. One or the other version was reprinted forty-four times by 9 June: N.H. (3), Mass. (8), R.I. (3), Conn. (6), N.Y. (8), N.J. (2), Pa. (8), Va. (4), S.C. (1), Ga. (1).

South Carolina

South Carolina Form of Ratification, 23 May 1788¹

[The U.S. Constitution appears here.]

In Convention of the people of the state of South Carolina by their Representatives held in the city of charleston, on Monday the twelfth day of May and continued by divers Adjournments to friday the twenty third day of May Anno Domini, One thousand seven hundred and eighty eight, and in the twelfth Year of the Independence of the United States of America.

The Convention having maturely considered the constitution or form of Government reported to Congress by the Convention of Delegates from the United States of America and submitted to them by a Resolution of the Legislature of this State passed the seventeenth and eigh-

teenth days of February last in order to form a more perfect Union, establish Justice, ensure Domestic tranquillity, provide for the common defence, promote the general Welfare, and secure the blessings of Liberty to the people of the said United States and their posterity Do in the name and behalf of the people of this State hereby assent to and ratify the said Constitution.

Done in Convention the twenty third day of May in the Year of our Lord One thousand seven hundred and eighty eight, and of the Independence of the United States of America the twelfth.—

Thomas Pinckney President

Attest John Sanford Dart, Secretary

And Whereas it is essential to the preservation of the rights reserved to the several states, and the freedom of the people under the operations of a General government that the right of prescribing the manner time and places of holding the Elections to the Federal Legislature, should be for ever inseparably annexed to the sovereignty of the several States. This convention doth declare that the same ought to remain to all posterity a perpetual and fundamental right in the local, exclusive of the interference of the General Government except in cases where the Legislatures of the States, shall refuse or neglect to perform and fulfil the same according to the tenor of the said Constitution.—

This Convention doth also declare that no Section or paragraph of the said Constitution warrants a Construction that the states do not retain every power not expressly relinquished by them and vested in the General Government of the Union.—

Resolved that the general Government of the United States ought never to impose direct taxes, *but* where the monies arising from the duties, imposts and excise are insufficient for the public exigencies *nor then until* Congress shall have made a requisition upon the states to assess levy and pay their respective proportions of such requisitions and in case any State shall neglect or refuse to pay its proportion pursuant to such requisition then Congress may assess and levy such state's proportion together with Interest thereon at the rate of Six per centum per annum from the time of payment prescribed by such requisition.—

Resolved that the third Section of the Sixth Article ought to be amended by inserting the word "*other*" between the words "*no*" and "*religious*."

Resolved that it be a standing instruction to all such delegates as may hereafter be elected to represent this State in the general Government to exert their utmost abilities and influence to effect an alteration of the Constitution conformably to the foregoing Resolutions.—

Done in Convention the twenty third day of May in the Year of our Lord one thousand Seven hundred and eighty eight and of the Independence of the United States of America the twelfth—

Thomas Pinckney President

Attest, John Sanford Dart, Secretary—

1. Engrossed MS, RG 11, Certificates of Ratification, DNA. The Form of Ratification and recommendatory amendments were printed in the Charleston *Columbian Herald*, 26 May 1788, and reprinted in forty-nine other newspapers by 30 June: Vt. (1), N.H. (3), Mass. (11), R.I. (4), Conn. (7), N.Y. (9), N.J. (2), Pa. (6), Md. (2), Va. (3), N.C. (1), and in the August issue of the Philadelphia *American Museum*.

New Hampshire

New Hampshire Convention's Proposed Amendments, 21 June 1788¹

First—That it be explicitly declared that all Powers not expressly & particularly delegated by the aforesaid Constitution are reserved to the several States to be by them exercised.—

Secondly—That there shall be one Representative to every Thirty Thousand Persons according to the Census mentioned in the Constitution untill the whole number of Representatives amounts to two hundred—

Thirdly—That Congress do not Exercise the Powers vested in them by the fourth Section of the first Article, but in Cases when a State shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the People to a free and equal Representation in Congress, nor shall Congress in any case make regulations contrary to a free and equal Representation—

Fourthly—That Congress do not lay direct Taxes but when the money arising from Impost, Excise & their other resources are insufficient for the Publick Exigencies; nor then untill Congress shall have first made a requisition upon the STATES to assess Levy and pay their respective proportions of such requisition agreeably to the Census fixed in the said Constitution in such way and manner as the Legislature of the State shall think best, & in such case if any State shall neglect then Congress may assess & Levy such State's proportion together with the interest thereon at the rate of six Per Cent pr. Annum from the Time of payment prescribed in such requisition—

Fifthly—That Congress erect no Company of Merchants with exclusive advantages of Commerce.—

Sixthly—That No Person shall be Tryed for any Crime by which he may incur an infamous punishment or loss of Life untill he be first

Indicted by a Grand Jury except in such Cases as may arise in the Government and regulations of the Land & Naval forces.—

Seventhly—All Common Law Cases between Citizens of different States, shall be commenced in the Common Law Courts of the respective STATES and no appeal shall be allowed to the federal Court in such Cases, unless the sum or value of the thing in controversy amount to Three Thousand Dollars.—

Eighthly—In Civil Actions between Citizens of different States, every Issue of fact arising in Actions at Common Law, shall be Tried by a Jury if the parties or either of them request it—

Ninthly—Congress, shall at no time consent that any Person holding an Office of Trust or profit under the UNITED STATES shall accept an Title of Nobility or any other title or Office from any King, Prince or foreign STATE.—

Tenthly—That no Standing Army shall be kept up in Time of Peace, unless with the consent of three fourths of the Members of each branch of Congress nor shall Soldiers in Time of Peace be quartered upon private Houses without the Consent of the Owners.—

Eleventhly—Congress shall make no Laws touching Religion or to infringe the rights of Conscience—

Twelfthly—Congress shall never disarm any Citizen, unless such as are or have been in actual Rebellion.—

1. Transcribed from the retained engrossed manuscript located in the office of the New Hampshire secretary of state. The engrossed manuscript sent to Congress is in RG 11, Certificates of Ratification, DNA. This manuscript is damaged with a significant portion of the text being unreadable. A second copy made for the Bankson Journal is also in the National Archives. A copy of the engrossed manuscript in the National Archives was made for George F. Goodwin in 1869 and is located in the Vault Collection at the Massachusetts State Library. The Confederation Congress read the New Hampshire Form of Ratification on 2 July (PCC, 1774–89, Item 185, Despatch Books, 1779–89, DNA; JCC, XXXIV, 281). A pay voucher dated 4 November 1788 was made out for Samuel Penhallow for £1.10 “For Engrossing 2 Copsys on Parchment of the ratification of the Constitution of the United States by the State of New Hampshire.” (Documents, Series of 1901, 1690–1796, New Hampshire State Archives). Two days later the state legislature approved the payment.

The Form of Ratification, including the proposed amendments, was printed in the *New York Journal*, 3, 10 July; *New York Daily Advertiser*, 4, 5 July; Poughkeepsie, N.Y., *Country Journal*, 8, 15 July; *Pennsylvania Packet*, 11 July; Philadelphia *Independent Gazetteer*, 12 July; Annapolis *Maryland Gazette*, 17 July; New Jersey *Brunswick Gazette*, 22 July; *Maryland Journal*, 22 July; the July issue of the *New York American Magazine* (amendments omitted); and the August issue of the *Philadelphia American Museum*.

Virginia

Virginia Convention's Proposed Amendments, 27 June 1788¹

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

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

1st. That there are certain natural rights of which men when they form a social compact cannot deprive or divest their posterity, among which are the enjoyment of life, and liberty, with the means of acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.

2d. That all power is naturally vested in, and consequently derived from, the people; that magistrates therefore are their trustees, and agents, and at all times amenable to them.

3d. That Government ought to be instituted for the common benefit, protection and security of the people; and that the doctrine of non-resistance against arbitrary power and oppression, is absurd, slavish, and destructive to the good and happiness of mankind.

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

5th. That the Legislative, Executive and Judiciary powers of Government should be separate and distinct, and that the members of the two first may be restrained from oppression by feeling and participating the public burthens, they should at fixed periods be reduced to a private station, return into the mass of the people, and the vacancies be supplied by certain and regular elections; in which all or any part of the former members to be eligible or ineligible, as the rules of the Constitution of Government, and the laws shall direct.

6th. That elections of Representatives in the Legislature ought to be free and frequent, and all men having sufficient evidence of permanent

common interest with, and attachment to the community, ought to have the right of suffrage: and no aid, charge, tax or fee can be set, rated, or levied upon the people without their own consent, or that of their Representatives, so elected, nor can they be bound by any law, to which they have not in like manner assented for the public good.

7th. That all power of suspending laws, or the execution of laws by any authority without the consent of the Representatives of the people in the Legislature, is injurious to their rights, and ought not to be exercised.

8th. That in all criminal and capital prosecutions, a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence and be allowed counsel in his favor, and to a fair and speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty (except in the government of the land and naval forces) nor can he be compelled to give evidence against himself.

9th. That no freeman ought to be taken, imprisoned, or disseized of his freehold, liberties, privileges or franchises, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the law of the land.

10th. That every freeman restrained of his liberty is entitled to a remedy to enquire into the lawfulness thereof, and to remove the same, if unlawful, and that such remedy ought not to be denied nor delayed.

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

12th. That every freeman ought to find a certain remedy by recourse to the laws for all injuries and wrongs he may receive in his person, property, or character. He ought to obtain right and justice freely without sale, completely and without denial, promptly and without delay, and that all establishments or regulations, contravening these rights, are oppressive and unjust.

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

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

15th. That the people have a right peaceably to assemble together to consult for the common good, or to instruct their Representatives; and that every freeman has a right to petition or apply to the Legislature for redress of grievances.

16th. That the people have a right to freedom of speech, and of writing and publishing their sentiments; that the freedom of the press is one of the greatest bulwarks of liberty, and ought not to be violated.

17th. That the people have a right to keep and bear arms: that a well regulated militia composed of the body of the people trained to arms, is the proper, natural and safe defence of a free State. That standing armies in time of peace are dangerous to liberty, and therefore ought to be avoided, as far as the circumstances and protection of the community will admit; and that in all cases, the military should be under strict subordination to and governed by the civil power.

18th. That no soldier in time of peace ought to be quartered in any house without the consent of the owner, and in time of war in such manner only as the laws direct.

19th. That any person religiously scrupulous of bearing arms ought to be exempted upon payment of an equivalent to employ another to bear arms in his stead.

20th. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men have an equal, natural and unalienable right to the free exercise of religion according to the dictates of conscience, and that no particular religious sect or society ought to be favored or established by law in preference to others.

AMENDMENTS TO THE CONSTITUTION.

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

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

3d. When the Congress shall lay direct taxes or excises, they shall immediately inform the Executive power of each State, of the quota of such State according to the census herein directed, which is proposed to be thereby raised; and if the Legislature of any State shall pass a law which shall be effectual for raising such quota at the time required by

Congress, the taxes and excises laid by Congress, shall not be collected in such State.

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

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

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

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

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

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

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

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

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

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

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

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

16th. That Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for Senators and Representatives, or either of them, except when the Legislature of any State shall neglect, refuse, or be disabled by invasion or rebellion to prescribe the same.

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

18th. That the laws ascertaining the compensation of Senators and Representatives for their services, be postponed in their operation, until after the election of Representatives immediately succeeding the passing thereof; that excepted, which shall first be passed on the subject.

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

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

1. Printed: *Debates and Other Proceedings of the Convention of Virginia . . .* (3 vols., Petersburg, Va., 1788–1789) (Evans 21551, 22225), III, 218–23. Printed in the *Virginia Gazette and Weekly Advertiser*, 3 July; *Virginia Centinel*, 9 July; *Kentucky Gazette*, 9, 16 August; and, in whole or in part, in thirteen newspapers and one magazine outside of Virginia by the first week of August: Conn. (1), N.Y. (2), N.J. (2), Pa. (6), Md. (3).

New York

New York Declaration of Rights, Form of Ratification, and Recommendatory Amendments to the Constitution, 26 July 1788¹

[At this point the U.S. Constitution with the names of the signers appears.]

WE the Delegates of the People of the State of New York, duly elected and Met in Convention, having maturely considered the Constitution for the United States of America, agreed to on the seventeenth day of September, in the year One thousand Seven hundred and Eighty seven, by the Convention then assembled at Philadelphia in the Commonwealth of Pennsylvania (a Copy whereof precedes these presents) and having also seriously and deliberately considered the present situation of the United States, Do declare and make known.

That all Power is originally vested in and consequently derived from the People, and that Government is instituted by them for their common Interest Protection and Security.

That the enjoyment of Life, Liberty and the pursuit of Happiness are essential rights which every Government ought to respect and preserve.

That the Powers of Government may be reassumed by the People, whensoever it shall become necessary to their Happiness; that every Power, Jurisdiction and right, which is not by the said Constitution clearly delegated to the Congress of the United States, or the departments of the Government thereof, remains to the People of the several States, or to their respective State Governments to whom they may have granted the same; And that those Clauses in the said Constitution, which declare, that Congress shall not have or exercise certain Powers, do not imply that Congress is entitled to any Powers not given by the said Constitution; but such Clauses are to be construed either as exceptions to certain specified Powers, or as inserted merely for greater Caution.

That the People have an equal, natural and unalienable right, freely and peaceably to Exercise their Religion according to the dictates of Conscience, and that no Religious Sect or Society ought to be favoured or established by Law in preference of others.

That the People have a right to keep and bear Arms; that a well regulated Militia, including the body of the People *capable of bearing Arms*, is the proper, natural and safe defence of a free State;

That the Militia should not be subject to Martial Law, except in time of War, Rebellion or Insurrection.

That standing Armies in time of Peace are dangerous to Liberty, and ought not to be kept up, except in Cases of necessity; and that at all times, the Military should be under strict Subordination to the civil Power.

That in time of Peace no Soldier ought to be quartered in any House without the consent of the Owner, and in time of War only by the civil Magistrate in such manner as the Laws may direct.

That no Person ought to be taken imprisoned, or disseised of his freehold, or be exiled or deprived of his Privileges Franchises, Life, Liberty or Property, but by due process of Law.

That no Person ought to be put twice in Jeopardy of Life or Limb for one and the same Offence, nor, unless in case of impeachment, be punished more than once for the same Offence.

That every Person restrained of his Liberty is entitled to an enquiry into the lawfulness of such restraint, and to a removal thereof if unlawful, and that such enquiry and removal ought not to be denied or delayed, except when on account of Public Danger the Congress shall suspend the privilege of the Writ of Habeas Corpus.

That excessive Bail ought not to be required; nor excessive Fines imposed; nor Cruel or unusual Punishments inflicted.

That (except in the Government of the Land and Naval Forces, and of the Militia when in actual Service, and in cases of Impeachment) a Presentment or Indictment by a Grand Jury ought to be observed as a necessary preliminary to the trial of all Crimes cognizable by the Judiciary of the United States, and such Trial should be speedy, public, and by an impartial Jury of the County where the Crime was committed; and that no person can be found Guilty without the unanimous consent of such Jury. But in cases of Crimes not committed within any County of any of the United States, and in Cases of Crimes committed within any County in which a general Insurrection may prevail, or which may be in the possession of a foreign Enemy, the enquiry and trial may be in such County as the Congress shall by Law direct; which County in the two Cases last mentioned should be as near as conveniently may

be to that County in which the Crime may have been committed. And that in all Criminal Prosecutions, the Accused ought to be informed of the cause and nature of his Accusation, to be confronted with his accusers and the Witnesses against him, to have the means of producing his Witnesses, and the assistance of Council for his defence, and should not be compelled to give Evidence against himself.

That the trial by Jury in the extent that it obtains by the Common Law of England is one of the greatest securities to the rights of a free People, and ought to remain inviolate.

That every Freeman has a right to be secure from all unreasonable searches and seizures of his person his papers or his property, and therefore, that all Warrants to search suspected places or seize any Freeman his papers or property, without information upon Oath or Affirmation of sufficient cause, are grievous and oppressive; and that all general Warrants (or such in which the place or person suspected are not particularly designated) are dangerous and ought not to be granted.

That the People have a right peaceably to assemble together to consult for their common good, or to instruct their Representatives; and that every person has a right to Petition or apply to the Legislature for redress of Grievances.

That the Freedom of the Press ought not to be violated or restrained.

That there should be once in four years an Election of the President and Vice President, so that no Officer who may be appointed by the Congress to act as President in case of the removal, death, resignation or inability of the President and Vice President can in any case continue to act beyond the termination of the period for which the last President and Vice President were elected.

That nothing contained in the said Constitution is to be construed to prevent the Legislature of any State from passing Laws at its discretion from time to time to divide such State into convenient Districts, and to apportion its Representatives to and amongst such Districts.

That the Prohibition contained in the said Constitution against *ex post facto* Laws, extends only to Laws concerning Crimes.

That all Appeals in Causes determinable according to the course of the common Law, ought to be by Writ of Error and not otherwise.

That the Judicial Power of the United States in cases in which a State may be a party, does not extend to criminal Prosecutions, or to authorize any Suit by any Person against a State.

That the Judicial Power of the United States as to Controversies between Citizens of the same State claiming Lands under Grants of different States is not to be construed to extend to any other Controversies

between them, except those which relate to such Lands, so claimed under Grants of different States.

That the Jurisdiction of the Supreme Court of the United States, or of any other Court to be instituted by the Congress, is not in any case to be increased enlarged or extended by any Fiction Collusion or mere suggestion;—And

That no Treaty is to be construed so to operate as to alter the Constitution of any State.

Under these impressions and declaring that the rights aforesaid cannot be abridged or violated, and that the Explanations aforesaid are consistent with the said Constitution, And in Confidence that the Amendments which shall have been proposed to the said Constitution will receive an early and mature Consideration: WE the said Delegates, in the Name and in the behalf of the People of the State of New York Do by these presents Assent to and Ratify the said Constitution. IN FULL CONFIDENCE NEVERTHELESS that until a Convention shall be called and convened for proposing Amendments to the said Constitution, the Militia of this State will not be continued in Service out of this State for a longer term than six weeks without the Consent of the Legislature thereof;—that the Congress will not make or alter any Regulation in this State respecting the times places and manner of holding Elections for Senators or Representatives unless the Legislature of this State shall neglect or refuse to make Laws or regulations for the purpose, or from any circumstance be incapable of making the same, and that in those cases such power will only be exercised until the Legislature of this State shall make provision in the Premises;—that no Excise will be imposed on any Article of the Growth production or Manufacture of the United States, or any of them within this State, Ardent Spirits excepted; And that the Congress will not lay direct Taxes within this State, but when the Monies arising from the Impost and Excise shall be insufficient for the public Exigencies, nor then, until Congress shall first have made a Requisition upon this State to assess levy and pay the Amount of such Requisition made agreeably to the Census fixed in the said Constitution in such way and manner as the Legislature of this State shall judge best, but that in such case, if the State shall neglect or refuse to pay its proportion pursuant to such Requisition, then the Congress may assess and levy this States proportion together with Interest at the Rate of six per Centum per Annum from the time at which the same was required to be paid.

DONE in Convention at Poughkeepsie in the County of Dutchess in the State of New York the twenty sixth day of July in the year of our Lord One thousand Seven hundred and Eighty eight.

By Order of the Convention.
Geo: Clinton President

Attested

John McKesson }
Abm. B. Bancker } Secretaries

AND the Convention do in the Name and Behalf of the People of the State of New York enjoin it upon their Representatives in the Congress, to Exert all their Influence, and use all reasonable means to Obtain a Ratification of the following Amendments to the said Constitution in the manner prescribed therein; and in all Laws to be passed by the Congress in the mean time to conform to the spirit of the said Amendments as far as the Constitution will admit.

That there shall be one Representative for every thirty thousand Inhabitants, according to the enumeration or Census mentioned in the Constitution, until the whole number of Representatives amounts to two hundred; after which that number shall be continued or encreased but not diminished, as Congress shall direct, and according to such ratio as the Congress shall fix, in conformity to the rule prescribed for the Apportionment of Representatives and direct Taxes.

That the Congress do not impose any Excise on any Article (except Ardent Spirits) of the Growth production or Manufacture of the United States, or any of them.

That Congress do not lay direct Taxes but when the Monies arising from the Impost and Excise shall be insufficient for the Public Exigencies, nor then until Congress shall first have made a Requisition upon the States to assess levy and pay their respective proportions of such Requisition, agreeably to the Census fixed in the said Constitution, in such way and manner as the Legislatures of the respective States shall judge best; and in such Case, if any State shall neglect or refuse to pay its proportion pursuant to such Requisition, then Congress may assess and levy such States proportion, together with Interest at the rate of six per Centum per Annum, from the time of Payment prescribed in such Requisition.

That the Congress shall not make or alter any Regulation in any State respecting the times places and manner of holding Elections for Senators or Representatives, unless the Legislature of such State shall neglect or refuse to make Laws or Regulations for the purpose, or from any circumstance be incapable of making the same, and then only until the Legislature of such State shall make provision in the premisses; provided that Congress may prescribe the time for the Election of Representatives.

That no Persons except natural born Citizens, or such as were Citizens on or before the fourth day of July one thousand seven hundred and seventy six, or such as held Commissions under the United States during the War, and have at any time since the fourth day of July one thousand seven hundred and seventy six become Citizens of one or other of the United States, and who shall be Freeholders, shall be eligible to the Places of President, Vice President, or Members of either House of the Congress of the United States.

That the Congress do not grant Monopolies or erect any Company with exclusive Advantages of Commerce.

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 Senators and Representatives present, in each House.

That no Money be borrowed on the Credit of the United States without the Assent of two-thirds of the Senators and Representatives present in each House.

That the Congress shall not declare War without the concurrence of two-thirds of the Senators and Representatives present in each House.

That the Privilege of the *Habeas Corpus* shall not by any Law be suspended for a longer term than six Months, or until twenty days after the Meeting of the Congress next following the passing of the Act for such suspension.

That the Right of the Congress to exercise exclusive Legislation over such District, not exceeding ten Miles square, as may by cession of a particular State, and the acceptance of Congress, become the Seat of the Government of the United States, shall not be so exercised, as to exempt the Inhabitants of such District from paying the like Taxes Imposts Duties and Excises, as shall be imposed on the other Inhabitants of the State in which such District may be; and that no person shall be privileged within the said District from Arrest for Crimes committed, or Debts contracted out of the said District.

That the Right of exclusive Legislation with respect to such places as may be purchased for the Erection of Forts, Magazines, Arsenals, Dock yards and other needful Buildings, shall not authorize the Congress to make any Law to prevent the Laws of the States respectively in which they may be, from extending to such places in all civil and Criminal Matters, except as to such Persons as shall be in the Service of the United States; nor to them with respect to Crimes committed without such Places.

That the Compensation for the Senators and Representatives be ascertained by standing Laws; and that no alteration of the existing rate

of Compensation shall operate for the Benefit of the Representatives, until after a subsequent Election shall have been had.

That the Journals of the Congress shall be published at least once a year, with the exception of such parts relating to Treaties or Military operations, as in the Judgment of either House shall require Secrecy; and that both Houses of Congress shall always keep their Doors open during their Sessions, unless the Business may in their Opinion require Secrecy. That the yeas & nays shall be entered on the Journals whenever two Members in either House may require it.

That no Capitation Tax shall ever be laid by the Congress.

That no Person be eligible as a Senator for more than six years in any term of twelve years; and that the Legislatures of the respective States may recal their Senators or either of them, and elect others in their stead, to serve the remainder of the time for which the Senators so recalled were appointed.

That no Senator or Representative shall during the time for which he was elected be appointed to any Office under the Authority of the United States.

That the Authority given to the Executives of the States to fill the vacancies of Senators be abolished, and that such vacancies be filled by the respective Legislatures.

That the Power of Congress to pass uniform Laws concerning Bankruptcy shall only extend to Merchants and other Traders; and that the States respectively may pass Laws for the relief of other Insolvent Debtors.

That no Person shall be eligible to the Office of President of the United States a third time.

That the Executive shall not grant Pardons for Treason, unless with the Consent of the Congress; but may at his discretion grant Reprieves to persons convicted of Treason, until their Cases can be laid before the Congress.

That the President or person exercising his Powers for the time being, shall not command an Army in the Field in person, without the previous desire of the Congress.

That all Letters Patent, Commissions, Pardons, writs and process of the United States, shall run in the Name of *the People of the United States*, and be tested in the Name of the President of the United States, or the person exercising his powers for the time being, or the first Judge of the Court out of which the same shall issue, as the case may be.

That the Congress shall not constitute ordain or establish any Tribunals or Inferior Courts, with any other than Appellate Jurisdiction, except such as may be necessary for the Tryal of Causes of Admiralty

and Maritime Jurisdiction, and for the Trial of piracies and Felonies committed on the High Seas; and in all other Cases to which the Judicial power of the United States extends, and in which the Supreme Court of the United States has not original Jurisdiction, the Causes shall be heard tried, and determined in some one of the State Courts, with the right of appeal to the Supreme Court of the United States, or other proper Tribunal to be established for that purpose by the Congress, with such exceptions, and under such regulations as the Congress shall make.

That the Court for the Trial of Impeachments shall consist of the Senate, the Judges of the Supreme Court of the United States, and the first or Senior Judge for the time being, of the highest Court of general and ordinary common Law Jurisdiction in each State;—that the Congress shall by standing Laws designate the Courts in the respective States answering this Description, and in States having no Courts exactly answering this Description, shall designate some other Court, preferring such if any there be, whose Judge or Judges may hold their places during good Behaviour—provided that no more than one Judge, other than Judges of the Supreme Court of the United States, shall come from one State—That the Congress be authorized to pass Laws for compensating the said Judges for such Services and for compelling their Attendance—and that a Majority at least of the said Judges shall be requisite to constitute the said Court—that no person impeached shall sit as a Member thereof. That each Member shall previous to the entering upon any Trial take an oath or Affirmation, honestly and impartially to hear and determine the Cause—and that a Majority of the Members present shall be necessary to a Conviction.

That persons aggrieved by any Judgment, Sentence or Decree of the Supreme Court of the United States, in any Cause in which that Court has original Jurisdiction, with such exceptions and under such Regulations as the Congress shall make concerning the same, shall upon application, have a Commission to be issued by the President of the United States, to such Men learned in the Law as he shall nominate, and by and with the Advice and consent of the Senate appoint, not less than seven, authorizing such Commissioners, or any seven or more of them, to correct the Errors in such Judgment or to review such Sentence and Decree, as the case may be, and to do Justice to the parties in the Premises.

That no Judge of the Supreme Court of the United States shall hold any other Office under the United States, or any of them.

That the Judicial Power of the United States shall extend to no Controversies respecting Land, unless it relate to Claims of Territory or

Jurisdiction between States, or to Claims of Lands between Individuals, or between States and Individuals under the Grants of different States.

That the Militia of any State shall not be compelled to serve without the limits of the State for a longer term than six weeks, without the Consent of the Legislature thereof.

That the words *without the Consent of the Congress* in the seventh Clause of the ninth Section of the first Article of the Constitution, be expunged.

That the Senators and Representatives and all Executive and Judicial officers of the United States shall be bound by Oath or Affirmation not to infringe or violate the Constitutions or Rights of the respective States.

That the Legislatures of the respective States may make Provision by Law, that the Electors of the Election Districts to be by them appointed shall chuse a Citizen of the United States who shall have been an Inhabitant of such District for the Term of one year immediately preceding the time of his Election, for one of the Representatives of such State.

DONE in Convention at Poughkeepsie in the County of Dutchess in the State of New York the twenty sixth day of July in the year of our Lord One thousand seven hundred and Eighty eight.

By Order of the Convention.

Geo: Clinton President

Attested—

John McKesson	} Secretaries
Abm. B. Bancker	

1. Engrossed MS, RG11, Certificates of Ratification, DNA. The Form of Ratification and proposed amendments were printed in the Poughkeepsie *Country Journal*, 29 July and 12 August, and reprinted in whole or in part in the August issue of the Philadelphia *American Museum* and in forty-two newspapers by 30 August: Vt. (1), N.H. (2), Mass. (10), R.I. (3), Conn. (6), N.Y. (8), N.J. (1), Pa. (5), Md. (3), Va. (2), S.C. (1).

North Carolina

North Carolina Declaration of Rights and Amendments

2 August 1788¹

DECLARATION OF RIGHTS.

1st. That there are certain natural rights, of which men, when they form a social compact, cannot deprive or divest their posterity, among which are the enjoyment of life and liberty, with the means of acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.

2d. That all power is naturally vested in, and consequently derived from the people; that magistrates therefore are their trustees and agents, and at all times amenable to them.

3d. That government ought to be instituted for the common benefit, protection and security of the people; and that the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive to the good and happiness of mankind.

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

5th. That the legislative, executive and judiciary powers of government should be separate and distinct, and that the members of the two first may be restrained from oppression, by feeling and participating the public burthens, they should at fixed periods be reduced to a private station, return into the mass of the people, and the vacancies be supplied by certain and regular elections; in which all or any part of the former members to be eligible or ineligible, as the rules of the constitution of government and the laws shall direct.

6th. That elections of representatives in the legislature ought to be free and frequent, and all men having sufficient evidence of permanent common interest with, and attachment to the community, ought to have the right of suffrage; and no aid, charge, tax or fee can be set, rated or levied upon the people without their own consent, or that of their representatives so elected; nor can they be bound by any law to which they have not in like manner assented for the public good.

7th. That all power of suspending laws, or the execution of laws, by any authority, without the consent of the representatives of the people in the legislature, is injurious to their rights and ought not to be exercised.

8th. That in all 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, without whose unanimous consent he cannot be found guilty (except in the government of the land and naval forces) nor can he be compelled to give evidence against himself.

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

10th. That every freeman restrained of his liberty, is entitled to a remedy to enquire into the lawfulness thereof, and to remove the same if unlawful; and that such remedy ought not to be denied nor delayed.

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

12th. That every freeman ought to find a certain remedy by recourse to the laws for all injuries and wrongs he may receive in his person, property or character; he ought to obtain right and justice freely without sale, completely and without denial, promptly and without delay, and that all establishments or regulations contravening these rights, are oppressive and unjust.

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

14th. That every freeman has a right to be secure from all unreasonable searches and seizures of his person, his papers and property; all warrants therefore to search suspected places, or to apprehend any suspected person without specially naming or describing the place or person, are dangerous and ought not to be granted.

15th. That the people have a right peaceably to assemble together to consult for the common good, or to instruct their representatives; and that every freeman has a right to petition or apply to the legislature for redress of grievances.

16th. That the people have a right to freedom of speech, and of writing and publishing their sentiments; that the freedom of the press is one of the greatest bulwarks of liberty, and ought not to be violated.

17th. That the people have a right to keep and bear arms; that a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural and safe defence of a free state. That standing armies in time of peace, are dangerous to liberty, and therefore ought to be avoided, as far as the circumstances and protection of the community will admit; and that in all cases, the military should be under strict subordination to, and governed by, the civil power.

18th. That no soldier in time of peace ought to be quartered in any house without the consent of the owner, and in time of war in such manner only as the laws direct.

19th. That any person religiously scrupulous of bearing arms ought to be exempted, upon payment of an equivalent to employ another to bear arms in his stead.

20th. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men have an equal, natural and unalienable right to the free exercise of religion, according to the dictates of conscience; and that no particular religious sect or

society ought to be favoured or established by law in preference to others.

AMENDMENTS to the CONSTITUTION.

I. That each state in the union shall respectively retain every power, jurisdiction and right, which is not by this constitution delegated to the Congress of the United States, or to the departments of the federal government.

II. That there shall be one representative for every 30,000, according to the enumeration or census mentioned in the constitution, until the whole number of representatives amounts to two hundred; after which that number shall be continued or increased as Congress shall direct, upon the principles fixed in the constitution, by apportioning the representatives of each state to some greater number of people, from time to time, as population encreases.

III. When Congress shall lay direct taxes or excises, they shall immediately inform the executive power of each state, of the quota of such state, according to the census herein directed, which is proposed to be thereby raised: And if the legislature of any state shall pass a law, which shall be effectual for raising such quota at the time required by Congress, the taxes and excises laid by Congress shall not be collected in such state.

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

VIII. That no navigation law, or law regulating commerce, 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 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 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 increased or diminished during his continuance in office, otherwise than by general regulations of salary, which may take place on a revision of the subject at stated periods of not less than seven years, to commence from the time such salaries shall be first ascertained by Congress.

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 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.

1. *Proceedings and Debates of the Convention of North-Carolina . . .* (Edenton, 1789) (Evans 22037), 271–75.

North Carolina Amendments, 23 November 1789¹

AMENDMENTS.

I. That Congress shall not alter, modify, or interfere in the times, places and 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, or in case when the provision made by the state is so imperfect as that no consequent election is had.

II. 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.

III. 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.

IV. 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.

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

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

VII. 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.

VIII. That some tribunal, other than the Senate, be provided for trying impeachments of Senators.

1. *Journal of the Convention of the State of North-Carolina* (Edenton, [1790]) (Evans 22738), 15. Taken from RCS:N.C., 773–74, 757n.

Rhode Island

Rhode Island Form of Ratification and Amendments, 29 May 1790¹

[The U.S. Constitution with the names of the signers and the 17 September 1787 resolutions of the Constitutional Convention appear here.]

WE THE DELEGATES OF THE PEOPLE of the State of Rhode Island and Providence Plantations, duly elected and met in Convention, having maturely considered the Constitution for the United States of America, agreed to on the seventeenth day of September, in the Year one thousand seven hundred and eighty seven, by the Convention then assembled at Philadelphia, in the Commonwealth of Pennsylvania (a Copy whereof precedes these presents) and having also seriously and deliberately considered the present situation of this State, do declare and make known:

1st. That there are certain natural rights, of which men when they form a social compact, cannot deprive or divest their posterity, among which are the enjoyment of Life and Liberty, with the means of acquiring, possessing and protecting Property, and pursuing and obtaining happiness and safety.

2d. That all power is naturally vested in, and consequently derived from the people; that magistrates therefore are their trustees and agents, and at all times amenable to them.

3d. That the powers of government may be reassumed by the people, whensoever it shall become necessary to their happiness.—That the rights of the States respectively, to nominate and appoint all state Officers, and every other power, jurisdiction and right, which is not by the said constitution clearly delegated to the Congress of the United States or to the departments of government thereof, remain to the people of the several states, or their respective State Governments to whom they may have granted the same, and that those clauses in the said constitution which declare that Congress shall not have or exercise certain powers, do not imply, that Congress is entitled to any powers not given by the said constitution, but such clauses are to be construed as exceptions to certain specified powers, or as inserted merely for greater caution.

4th. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and convic-

tion, and 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.

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 publick burthens, they should at fixed periods be reduced to a private station, return into the mass of the people, and the vacancies be supplied by certain and regular elections, in which all or any part of the former members, to be eligible or ineligible, as the rules of the constitution of government and the laws shall direct.

6th. That elections of representatives in legislature ought to be free and frequent, and all men having sufficient evidence of permanent common interest with, and attachment to the community ought to have the right of suffrage, and no aid, charge, tax or fee can be set, rated or levied upon the people without their own consent or that of their representatives so elected, nor can they be bound by any law, to which they have not in like manner assented for the publick good.

7th. That all power of suspending laws or the execution of laws, by any authority without the consent of the representatives of the people in the legislature, is injurious to their rights, and ought not to be exercised.

8th. That in all 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, without whose unanimous consent he cannot be found guilty, (except in the government of the land and naval forces) nor can he be compelled to give evidence against himself.

9th. That no freeman ought to be taken, imprisoned or disseized of his freehold, liberties, privileges, or franchises, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty or property but by the trial by jury, or by the law of the land.

10th. That every freeman restrained of his liberty, is intitled 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 or delayed.

11th. That in controversies respecting property, and in suits between man and man the antient trial by jury, as hath been exercised by us and our ancestors, from the time whereof the memory of man is not

to the contrary, is one of the greatest securities to the rights of the people, and ought to remain sacred and inviolate.

12th. That every freeman ought to obtain right and justice, freely and without sale, completely and without denial, promptly and without delay, and that all establishments or regulations contravening these rights, are oppressive and unjust.

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

14th. That every person has a right to be secure from all unreasonable searches and seizures of his person, his papers or his property, and therefore that all warrants to search suspected places or seize any person, his papers or his property, without information upon oath, or affirmation of sufficient cause, are grievous and oppressive, and that all general warrants (or such in which the place or person suspected, are not particularly designated,) are dangerous, and ought not to be granted.

15th. That the people have a right peaceably to assemble together, to consult for their common good, or to instruct their representatives, and that every person has a right to petition or apply to the legislature for redress of grievances.

16th. That the people have a right to freedom of speech and of writing, and publishing their sentiments, that freedom of the press is one of the greatest bulwarks of liberty, and ought not to be violated.

17th. That the people have a right to keep and bear arms, that a well regulated militia, including the body of the people capable of bearing arms, is the proper, natural and safe defence of a free state; that the militia shall not be subject to martial law except in time of war, rebellion or insurrection; that standing armies in time of peace are dangerous to liberty, and ought not to be kept up, except in cases of necessity, and that at all times the military should be under strict subordination to the civil power; that in time of peace no soldier ought to be quartered in any house, without the consent of the owner, and in time of war, only by the civil magistrate, in such manner as the law directs.

18th. That any person religiously scrupulous of bearing arms, ought to be exempted, upon payment of an equivalent, to employ another to bear arms in his stead.

UNDER THESE IMPRESSIONS, and declaring, that the rights aforesaid cannot be abridged or violated, and that the explanations aforesaid, are consistent with the said constitution, and in confidence that the amendments hereafter mentioned, will receive an early and mature consideration, and conformably to the fifth article of said constitution, speedily become a part thereof. WE the said delegates, in the name,

and in the behalf of the PEOPLE OF THE STATE OF RHODE-ISLAND AND PROVIDENCE-PLANTATIONS, do by these Presents, assent to and ratify the said CONSTITUTION. In full confidence nevertheless, that until the amendments hereafter proposed and undermentioned shall be agreed to and ratified, pursuant to the aforesaid fifth article, the militia of this state will not be continued in service out of this State for a longer term than six weeks, without the consent of the legislature thereof; That the Congress will not make or alter any regulation in this State, respecting the times, places and manner of holding elections for senators or representatives, unless the legislature of this state shall neglect, or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same; and that in those cases, such power will only be exercised, until the legislature of this State shall make provision in the Premises, that the Congress will not lay direct taxes within this State, but when the monies arising from the impost, Tonnage and Excise shall be insufficient for the publick exigencies, nor until the Congress shall have first made a requisition upon this State to assess, levy and pay the amount of such requisition, made agreeable to the census fixed in the said constitution, in such way and manner, as the legislature of this State shall judge best, and that the Congress will not lay any capitation or poll tax.

DONE IN CONVENTION, at Newport in the County of Newport, in the STATE OF RHODE-ISLAND AND PROVIDENCE-PLANTATIONS, the twenty ninth day of May, in the Year of our LORD one thousand seven hundred and ninety, and in the fourteenth Year of the Independence of the United States of America.

By order of the Convention,

Daniel Owen President

Attest, Daniel Updike Secty

AND THE CONVENTION, do in the name and behalf of the PEOPLE of the STATE OF RHODE-ISLAND AND PROVIDENCE PLANTATIONS, enjoin it upon their Senators and Representative or Representatives, which may be elected to represent this State in Congress, to exert all their influence, and use all reasonable means to obtain a ratification of the following Amendments to the said Constitution, in the manner prescribed therein, and in all laws to be passed by the Congress in the mean time, to conform to the spirit of the said amendments, as far as the constitution will admit.

AMENDMENTS.

1st. The United States shall guarantee to each State its sovereignty, freedom and independence, and every power, jurisdiction and right which is not by this constitution expressly delegated to the United States.

2d. 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; or in case when the provision made by the states, is so imperfect as that no consequent election is had, and then only until the legislature of such state, shall make provision in the premises.

3d. It is declared by the Convention, that the judicial power of the United States in cases in which a state may be a party, does not extend to criminal prosecutions, or to authorize any suit by any person against a state; but to remove all doubts or controversies respecting the same, that it be especially expressed as a part of the constitution of the United States, 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 or discharging the publick securities of any one state, that each and every state shall have the exclusive right of making such laws and regulations for the before mentioned purpose, as they shall think proper.

4th. That no amendments to the constitution of the United States hereafter to be made, pursuant to the fifth article, shall take effect, or become a part of the constitution of the United States after the year one thousand seven hundred and ninety three, without the consent of eleven of the states heretofore united under one confederation.

5th. That the judicial powers of the United States shall extend to no possible 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 grants of different states, and debts due to the United States.

6th. That no person shall be compelled to do military duty, otherwise than by voluntary enlistment, except in cases of general invasion, any thing in the second paragraph of the sixth article of the constitution, or any law made under the constitution to the contrary notwithstanding.

7th. That no capitation or poll-tax shall ever be laid by Congress.

8th. In cases of direct taxes, Congress shall first make requisitions on the several states to assess, levy and pay their respective proportions of such requisitions, in such way and manner, as the legislatures of the several states shall judge best; and in case any state shall neglect or refuse to pay its proportion pursuant to such requisition, then Congress may assess and levy such state's proportion, together with interest at

the rate of six per cent. per annum, from the time prescribed in such requisition.

9th. That Congress shall lay no direct taxes, without the consent of the legislatures of three fourths of the states in the Union.

10th. That the journals of the proceedings of the Senate and house of Representatives shall be published as soon as conveniently may be, at least once in every year, except such parts thereof relating to treaties, alliances or military operations, as in their judgment require secrecy.

11th. That regular statements of the receipts and expenditures of all publick monies, shall be published at least once a year.

12th. As standing armies in time of peace are dangerous to liberty and ought not to be kept up, except in cases of necessity; and as at all times the military should be under strict subordination to the civil power, that therefore no standing army, or regular troops shall be raised, or kept up in time of peace.

13th. That no monies be borrowed on the credit of the United States without the assent of two thirds of the Senators and Representatives present in each house.

14th. That the Congress shall not declare war, without the concurrence of two thirds of the Senators and Representatives present in each house.

15th. That the words "without the consent of Congress" in the seventh clause in the ninth section of the first article of the constitution be expunged.

16th. That no judge of the supreme court of the United States, shall hold any other office under the United States, or any of them, nor shall any officer appointed by Congress, or by the President and Senate of the United States, be permitted to hold any office under the appointment of any of the states.

17th. As a traffick tending to establish or continue the slavery of any part of the human species, is disgraceful to the cause of liberty and humanity, that Congress shall, as soon as may be, promote and establish such laws and regulations, as may effectually prevent the importation of slaves of every description into the United States.

18th. That the State Legislatures have power to recall, when they think it expedient, their federal senators, and to send others in their stead.

19th. That Congress have power to establish a uniform rule of inhabitancy, or settlement of the poor of the different States throughout the United States.

20th. That Congress erect no company with exclusive advantages of commerce.

21st. That when two members shall move or call for the ayes and nays on any question, they shall be entered on the journals of the houses respectively.

DONE in Convention at Newport in the County of Newport in the STATE OF RHODE-ISLAND AND PROVIDENCE PLANTATIONS, the twenty ninth day of May, in the year of our LORD one thousand seven hundred and ninety, and the fourteenth year of the independence of the United States of America.

By order of the Convention.

Daniel Owen President.

Attest Daniel Updike Secty

1. Engrossed MS, RG 11, Certificates of Ratification, DNA. A broadside version of the form of ratification was printed by John Carter (Evans 22847). The form of ratification was reprinted in whole or in part, in twenty-five newspapers by 25 June: Vt. (2), Mass. (3), Conn. (6), N.Y. (3), Pa. (6), Del. (1), Md. (2); and in the appendix to volume VIII of the Philadelphia *American Museum*.

IX.
U.S. CONGRESS:
PROCEEDINGS AND DEBATES OVER
AMENDMENTS TO THE CONSTITUTION
4 May–September 1789

Introduction

Much of the debate over the ratification of the Constitution centered on amendments to the Constitution. Three key issues were considered: (1) what amendments should be proposed, (2) who should propose the amendments, and (3) when should the amendments be proposed. By the time the Constitution was adopted by the necessary nine states, it had been generally accepted that amendments (many also recommended by the state ratifying conventions) would be submitted to the first federal Congress to be proposed and adopted according to the procedure specified in Article V of the Constitution.

Scheduled to assemble on 4 March 1789, the two houses of the first federal Congress did not attain quorums until the first week in April. George Washington and John Adams arrived in New York City in April and took their oaths of office as president and vice president. Congress immediately immersed itself in the business of creating the new government. Before most of this important business was even begun, however, James Madison of Virginia on 4 May informed his fellow members of the U.S. House of Representatives that he intended to submit a list of amendments to the Constitution for their consideration.

Madison submitted his list of amendments to the House on 8 June. Over the next eleven weeks, the House in a select committee and in a committee of the whole considered Madison's and other amendments. In the last week of August 1789, the House of Representatives sent a list of seventeen proposed amendments to the Senate for its consideration. The Senate, meeting in secret, debated the amendments and proposed several significant changes and deletions. Over the course of the next month, the two houses (eventually meeting in a conference committee) reconciled their differences and agreed to submit twelve amendments to the state legislatures. Manuscript engrossed broadsides of the amendments were prepared, signed by Speaker of the House Frederick Augustus Muhlenberg and President of the Senate John Adams, attested by the clerk of the House and secretary of the Senate, and transmitted to the state executives by President Washington to be considered by their state legislatures. Congress also ordered the printing

of its acts and the twelve proposed amendments. On 5 October the New York *Daily Advertiser* printed an advertisement announcing the publication of such a pamphlet edition in which the twelve proposed amendments to the constitution appeared on pages 92–93. Punctuation, capitalization, and formatting differs from the manuscript engrossed broadsides. This printed version, however, incorrectly used the word “imprisonments” instead of “punishments” in the Tenth Amendment (which became the Eighth Amendment).

Newspaper Coverage of Congress’ Debate on Amendments

Newspapers throughout the country printed much of the debate over amendments in the House of Representatives. Little newspaper coverage reported on the Senate’s actions. (The Senate’s debates were not open to the public.) The House debate usually was first printed in two or three New York City newspapers. The *Gazette of the United States* and the *Daily Advertiser* printed their accounts within a day or two. The New York *Daily Gazette* sometimes followed with another original report. Thomas Lloyd, a shorthand note taker who had published a volume of Federalist speeches from the Pennsylvania ratifying Convention and had taken notes of the Maryland Convention debates that (due to Federalist pressure) were never printed, also took notes of the House of Representatives debates. Lloyd’s account was published weekly as the *Congressional Register*, which he sold on subscription. The debate printed in this Section IX of the Bill of Rights volume is taken from the *Congressional Register*. If the *Register* is incomplete, longer versions are printed from the New York City newspapers particularly from the *Gazette of the United States* and the *Daily Advertiser*. The first footnote for each day’s debate provides information not included in the *Congressional Register*’s account and also indicates what newspapers printed the first accounts of the debates as well as the many newspaper and magazine reprintings throughout the country. Eighty newspapers and two Philadelphia and one New York monthly magazines reprinted much of the congressional debate; sometimes as many as sixty newspapers reprinted one specific day’s debate. Pennsylvania, New York, and Massachusetts newspapers were most prolific in reprinting this debate.

Charts Compiled of Newspaper Coverage of Congress’ Debates and Proceedings

Several charts of newspaper coverage of the congressional debate over amendments have been compiled. The day of the House debate

or a list of the amendments appear at the top of the charts. One chart indicates how many newspapers from twelve individual states printed or reprinted each day's congressional debate. There are no totals for Delaware and South Carolina because no newspaper was published in the former while the newspapers in the latter chose not to reprint the congressional debate on the amendments. A chart for each of twelve states indicates what newspapers printed or reprinted the day's debate or the list of amendments. (An asterisk [*] indicates an excerpted reprinting, while a plus sign [+] indicates an additional new version of the debate—often a relatively short account).

American Newspapers and Magazines, 1789

Connecticut

American Mercury, Hartford
Connecticut Courant, Hartford
Connecticut Gazette, New London
Connecticut Journal, New Haven
Fairfield Gazette
Middlesex Gazette, Middletown
New Haven Gazette
Norwich Packet
Weekly Monitor, Litchfield

Georgia

Augusta Chronicle
Georgia Gazette, Savannah
Georgia State Gazette, Augusta

Maryland

Maryland Gazette, Annapolis
Maryland Gazette, Baltimore
Maryland Journal, Baltimore

Massachusetts

American Herald, Worcester
Berkshire Chronicle, Pittsfield
Boston Gazette
Cumberland Gazette, Portland,
 Maine
Essex Journal, Newburyport
Hampshire Chronicle, Springfield
Hampshire Gazette, Northampton
Herald of Freedom, Boston

Independent Chronicle, Boston
Massachusetts Centinel, Boston
Massachusetts Spy, Worcester
Salem Mercury
The Western Star, Stockbridge
Worcester Magazine

New Hampshire

Freeman's Oracle, Exeter
New Hampshire Gazette,
 Portsmouth
New Hampshire Gazetteer, Exeter
New Hampshire Recorder, Keene
New Hampshire Spy, Portsmouth

New Jersey

Brunswick Gazette,
 New Brunswick
New Jersey Journal,
 Elizabeth Town

New York

Albany Gazette
Albany Journal
Albany Register
Country Journal, Poughkeepsie
Daily Advertiser, New York
Daily Gazette, New York
Federal Herald, Lansingburgh
Gazette of the United States,
 New York

- Goshen Repository*
Hudson Weekly Gazette
New York Journal, New York
New York Morning Post, New York
New York Packet, New York
New York Weekly Museum,
 New York
American Magazine, New York
- North Carolina
Fayetteville Gazette
North Carolina State Gazette,
 Edenton
State Gazette of North Carolina,
 New Bern
Wilmington Centinel
- Pennsylvania
Carlisle Gazette
Federal Gazette, Philadelphia
Freeman's Journal, Philadelphia
Independent Gazetteer,
 Philadelphia
Pennsylvania Gazette,
 Philadelphia
Pennsylvania Herald, York
Pennsylvania Journal,
 Philadelphia
Pennsylvania Mercury,
 Philadelphia
Pennsylvania Packet,
 Philadelphia
- Pittsburgh Gazette*
American Museum Magazine,
 Philadelphia
Columbian Magazine,
 Philadelphia
- Rhode Island
Newport Herald
Newport Mercury
Providence Gazette
United States Chronicle,
 Providence
- South Carolina
City Gazette, Charleston
Columbian Herald, Charleston
State Gazette of South Carolina,
 Charleston
- Vermont
Vermont Gazette, Bennington
Vermont Journal, Windsor
- Virginia
Virginia Centinel, Winchester
Virginia Gazette, Alexandria
Virginia Gazette, Richmond
Virginia Gazette, Winchester
Virginia Herald, Fredericksburg
Virginia Independent Chronicle,
 Richmond

CUMULATIVE NATIONAL COVERAGE

Date of Congressional Action	5/4	5/25	6/8	6/8 list	7/21	7/28	7/28 list	8/3	8/11
Original Newspaper Printings									
	GUS	NYDG NYDA GUS	GUS NYDA* NYDG* NYP*	NYDA NYDG GUS	GUS NYDA* NYDG*	GUS NYDA* NYDG+	NYDA	GUS NYDA+	GUS NYDA+
Connecticut	2	5	4 2*	4	3 1*	1 1* 1+	4	2 1+	0
Georgia	1	0	1 1*	2	1 1*	0	0	0	0
Maryland	1	1	2 2*	2	2	1+	2	1 1+	0
Massachusetts	7	5	7 3*	7	7	5 1+	10	0	0
New Hampshire	0	3	3	1	1	0	2	0	1
New Jersey	0	0	2	2	1	1 1+	2	1	0
New York	6	6	3 7*	8	4 4*	4 4* 4+	10	2 2+	6 1+
North Carolina	0	0	1	2	0	0	2	0	1
Pennsylvania	5 2*	7 1*	5 7*	9	7	6 4+	8	3 2+	5 1+
Rhode Island	2	2	3 1*	3	1 1*	2 1+	4	2	1 1+
Vermont	0	0	0	2	0	0	0	0	0
Virginia	3	2	2 2*	2	4 1*	1 1+	4	1 1+	1
NATIONAL TOTALS	27 2*	31 1*	33 25*	44	31 8*	20 5* 14+	48	12 5+	15 3+

8/13	8/14	8/15	8/17	8/18	8/19	8/20	8/21	8/22	8/24	8/24 list	TOTALS
GUS NYDA NYDG ⁺	NYDA GUS ⁺ GUS ⁺ NYDG ⁺	NYDA GUS	NYDA GUS GUS ⁺	GUS NYDA NYDA ⁺	NYJ NYDA GUS	GUS NYDA	NYDA GUS NYWM ⁺	NYDA GUS NYWM ⁺	GUS Mass. Cent.	NYDA	
3 1* 1+	3 3+	6	2 3+	4 1*	5 1+	5	5	5	2	4	69 6* 10+
0	0	0	0	0	0	0	0	0	0	2	7 2*
3 1+	4	3	3	3	2	3	4	2 1*	1	2	41 3* 3+
9 2+	4 2* 3+	7	3 7+	10	8 1+	8	6 1* 2+	4 1* 1+	6	7	120 7* 17+
3 1*	2 2+	3	3+	3 1*	3	3	3	2 1*	2	0	35 3* 5+
2	2 1+	1 1*	2+	1*	1	1	1	1	0	1	19 2* 2+
5 1* 3+	4 1* 6+	5 1*	4 3+	7 2* 2+	7 1+	7	5 2+	6 1* 3+	2	9	110 21* 27*
0	0	0	0	0	0	1	1+	1 1+	0	1	9 2+
6 1* 5+	7 2* 4+	7 3*	5 4+	8 2* 1+	7	8	9	7	3	6	128 17* 21+
1 1* 1+	1* 4+	2 1*	2 2+	2 2* 1+	2	1	1	0	1	2	34 6* 10+
1*	1*	1*	1	1	1	1	1	1	0	2	10 3*
1* 2+	2 1* 1+	3 1*	3 1+	4 1*	2	4	3	3	0	4	48 7* 6+
30 7* 15+	28 8* 24+	37 8*	23 25+	42 10* 4+	38 3+	42	38 1* 5+	32 4* 5+	17	40	630 77* 103+

State by State Coverage

CONNECTICUT

Date of Congressional Action	5/4	5/25	6/8	6/8 list	7/21	7/28	7/28 list	8/3	8/11
Original Newspaper Printings			GUS NYDA*	NYDA NYDG	GUS NYDA*	GUS NYDA*		GUS NYDA ⁺	GUS NYDA ⁺
	GUS	NYDG GUS	NYDG* NYP*	NYDG GUS	NYDG*	NYDG ⁺	NYDA		
American Mercury		6/15	6/22	6/29	8/3		8/10		
Connecticut Courant	6/15	7/13	7/22	6/22	8/24		8/31	8/31	
Connecticut Gazette	5/15	6/12	6/26	6/26	7/31*				
Connecticut Journal		6/3	6/17	6/17	7/29	8/5 8/5 ⁺		8/12	
Middlesex Gazette			6/20*				8/8		
Norwich Packet		6/12	6/26*			8/14*	8/14	8/14 ⁺	
CONNECTICUT TOTALS	2	5	4 2*	4	3 1*	1 1* 1⁺	4	2 1⁺	0

GEORGIA

Date of Congressional Action	5/4	5/25	6/8	6/8 list	7/21	7/28	7/28 list	8/3	8/11
Original Newspaper Printings			GUS NYDA*	NYDA NYDG	GUS NYDA*	GUS NYDA*		GUS NYDA ⁺	GUS NYDA ⁺
	GUS	NYDG GUS	NYDG* NYP*	NYDG GUS	NYDG*	NYDG ⁺	NYDA		
Augusta Chronicle			8/22*	8/1	10/17*				
Georgia Gazette	5/28		7/16	7/23	8/13				
GEORGIA TOTALS	1	0	1 1*	2	1 1*	0	0	0	0

8/13	8/14	8/15	8/17	8/18	8/19	8/20	8/21	8/22	8/24	8/24 list	TOTALS
GUS NYDA NYDG ⁺	NYDA GUS GUS ⁺ NYDG ⁺	NYDA GUS	NYDA GUS GUS ⁺	GUS NYDA NYDA ⁺	NYJ NYDA GUS	GUS NYDA	NYDA GUS NYWM ⁺	NYDA GUS NYWM ⁺	GUS Mass. Cent.	NYDA	
8/31	9/7	9/7	9/7	9/7	9/7	9/14	9/14	9/14	9/14		15
8/31	9/7 8/31 ⁺		9/14 ⁺	9/14	9/14 9/14 ⁺	9/14	9/14	9/21			14 3 ⁺
8/28	8/28	8/28 9/4	9/4	9/4	9/4	9/4	9/4	9/11	9/4	9/4	16 1*
8/19 ⁺	8/19 ⁺	8/26 9/7	8/26 ⁺	8/26	8/26	8/26	8/26	9/2		9/2	14 4 ⁺
										9/5	2 1*
8/28*	8/28 ⁺	8/28	8/28 ⁺	8/28*	9/4	9/4	9/4	9/11		9/11	8 4* 3 ⁺
3 1* 1 ⁺	3 3 ⁺	6	2 3 ⁺	4 1*	5 1 ⁺	5	5	5	2	4	69 6* 10 ⁺

8/13	8/14	8/15	8/17	8/18	8/19	8/20	8/21	8/22	8/24	8/24 list	TOTALS
GUS NYDA NYDG ⁺	NYDA GUS GUS ⁺ NYDG ⁺	NYDA GUS	NYDA GUS GUS ⁺	GUS NYDA NYDA ⁺	NYJ NYDA GUS	GUS NYDA	NYDA GUS NYWM ⁺	NYDA GUS NYWM ⁺	GUS Mass. Cent.	NYDA	
										9/12	2 2*
										9/17	5
0	0	0	0	0	0	0	0	0	0	2	7 2*

MARYLAND

Date of Congressional Action	5/4	5/25	6/8	6/8 list	7/21	7/28	7/28 list	8/3	8/11
Original Newspaper Printings			GUS NYDA*	NYDA NYDG	GUS NYDA*	GUS NYDA*		GUS NYDA ⁺	GUS NYDA ⁺
	GUS	GUS	NYP*	GUS	NYDG*	NYDG ⁺	NYDA		
Annapolis Maryland Gazette						8/13 ⁺		8/13 ⁺	
Baltimore Maryland Gazette		6/2	6/19 6/16*	6/23	7/28		8/3	8/11	
Maryland Journal	5/15		6/19 6/16*	6/23	7/28		8/4		
MARYLAND TOTALS	1	1	2 2*	2	2	1⁺	2	1 1⁺	0

8/13	8/14	8/15	8/17	8/18	8/19	8/20	8/21	8/22	8/24	8/24 list	TOTALS
GUS NYDA NYDG ⁺	NYDA GUS GUS ⁺ NYDG ⁺	NYDA GUS	NYDA GUS GUS ⁺	GUS NYDA NYDA ⁺	NYJ NYDA GUS	GUS NYDA	NYDA GUS NYWM ⁺	NYDA GUS NYWM ⁺	GUS Mass. Cent.	NYDA	
	9/3	9/3	9/10	9/10	9/10	9/10	9/10			9/3	8 2 ⁺
8/21 ⁺ 8/25	8/25	8/25	8/28	8/28		9/1	9/8	9/1 9/8	9/1		16 1* 1 ⁺
8/21 8/25	8/21 8/25	8/25	8/25	8/25	8/28	8/28	8/28 9/1	9/10*		9/1	17 2*
3 1 ⁺	4	3	3	3	2	3	4	2 1*	1	2	41 3* 3 ⁺

MASSACHUSETTS

Date of Congressional Action	5/4	5/25	6/8	6/8 list	7/21	7/28	7/28 list	8/3	8/11
Original Newspaper Printings			GUS NYDA*	NYDA NYDG	GUS NYDA*	GUS NYDA*		GUS NYDA*	GUS NYDA*
	GUS	GUS	NYP*	GUS	NYDG*	NYDG+	NYDA		
American Herald		6/11	6/25	6/25			8/13		
Berkshire Chronicle					8/10		8/17		
Boston Gazette	5/11			6/22	8/3		8/10		
Cumberland Gazette			6/26				8/14		
Essex Journal	5/13		6/24*		8/5	8/12 8/12+	8/12		
Hampshire Chronicle									
Hampshire Gazette	6/3	6/17	7/1	7/1	8/12		8/19		
Herald of Freedom	5/12	6/5	6/16	6/19	7/28	8/4 8/7	8/7		
Independent Chronicle	5/14		6/18	6/25	7/30		8/6		
Massachusetts Centinel			6/17 6/17*	6/20					
Massachusetts Spy	5/14	6/4	6/25		7/30		8/13		
Salem Mercury	5/19	6/9	6/16*	6/23		8/11 9/1	9/1		
Thomas' Almanack for 1790 printed by Isaiah Thomas of the Massachusetts Spy									
MASSACHUSETTS TOTALS	7	5	7 3*	7	7	5 1+	10	0	0

8/13	8/14	8/15	8/17	8/18	8/19	8/20	8/21	8/22	8/24	8/24 list	TOTALS
GUS NYDA NYDG ⁺	NYDA GUS GUS ⁺ NYDG ⁺	NYDA GUS	NYDA GUS GUS ⁺	GUS NYDA NYDA ⁺	NYJ NYDA GUS	GUS NYDA	NYDA GUS NYWM ⁺	NYDA GUS NYWM ⁺	GUS Mass. Cent.	NYDA	
8/27 ⁺	9/3* 8/27 ⁺	9/3	9/3 ⁺	9/3	9/3	9/3	9/3	9/10			10 1* 3 ⁺
8/31 ⁺	8/31 ⁺		9/7 ⁺	9/7	9/7	9/7	9/7* 9/7 ⁺	9/7*			5 2* 4 ⁺
8/24	8/24 ⁺	8/24	8/31 ⁺	8/31	8/31	8/31	8/31			9/7	11 2 ⁺
8/28			9/4 ⁺	9/4	9/4	9/4	9/4		9/4		8 1 ⁺
8/26 9/2	9/2	9/2	9/2 ⁺	9/2 9/9	9/9	9/9	9/9			9/9	14 1* 2 ⁺
										9/9	1
9/9	9/9	9/9	9/9						9/16	9/9	12
8/25			8/28 ⁺	8/28	8/28	8/28	8/28 ⁺	8/28 ⁺ 9/1		9/4	14 3 ⁺
8/27	8/27*	8/27	8/27 ⁺	8/27					9/3	9/3	10 1* 1 ⁺
									9/2		3 1*
8/27	8/27	8/27	9/3	9/3	9/3 9/3 ⁺	9/3	9/3	9/3	9/3		15 1 ⁺
8/25	9/1	9/1	9/8	9/8	9/8	9/8	9/8	9/8	9/8		16 1*
										1790	1
9 2 ⁺	4 2* 3 ⁺	7	3 7 ⁺	10	8 1 ⁺	8	6 1* 2 ⁺	4 1* 1 ⁺	6	7	120 7* 17 ⁺

NEW HAMPSHIRE

Date of Congressional Action	5/4	5/25	6/8	6/8 list	7/21	7/28	7/28 list	8/3	8/11
Original Newspaper Printings				GUS NYDA*	NYDA NYDG	GUS NYDA*	GUS NYDA*		
	GUS	NYDG NYDA GUS	NYDA* NYDG* NYP*	NYDA NYDG GUS		NYDA* NYDG*	NYDA* NYDG+	GUS NYDA+	GUS NYDA+
Freeman's Oracle		6/16	7/7						
New Hampshire Gazette			6/25				8/13		
New Hampshire Gazetteer		6/11							
New Hampshire Recorder									
New Hampshire Spy		6/6	6/23	6/27	8/3		8/11		8/22
NEW HAMPSHIRE TOTALS	0	3	3	1	1	0	2	0	1

NEW JERSEY

Date of Congressional Action	5/4	5/25	6/8	6/8 list	7/21	7/28	7/28 list	8/3	8/11
Original Newspaper Printings				GUS NYDA*	NYDA NYDG	GUS NYDA*	GUS NYDA*		
	GUS	NYDG NYDA GUS	NYDA* NYDG* NYP*	NYDA NYDG GUS		NYDA* NYDG*	NYDA* NYDG+	GUS NYDA+	GUS NYDA+
Brunswick Gazette			6/16	6/23			8/4		
New Jersey Journal			6/17	7/8	7/29	8/5 8/5+	8/5	8/12	
NEW JERSEY TOTALS	0	0	2	2	1	1 1+	2	1	0

8/13	8/14	8/15	8/17	8/18	8/19	8/20	8/21	8/22	8/24	8/24 list	TOTALS
GUS NYDA NYDG ⁺	NYDA GUS GUS ⁺ NYDG ⁺	NYDA GUS	NYDA GUS GUS ⁺	GUS NYDA NYDA ⁺	NYJ NYDA GUS	GUS NYDA	NYDA GUS NYWM ⁺	NYDA GUS NYWM ⁺	GUS Mass. Cent.	NYDA	2
9/3 9/10	9/17	9/24	9/24 ⁺	9/24					9/3		8 1 ⁺
9/5*	9/5 9/5 ⁺	9/12	9/12 ⁺	9/12	9/12	9/19	9/19	9/19	9/19		9 1* 2 ⁺
				9/10*	9/10	9/10	9/10	9/10*			3 2*
8/22	9/17 ⁺	8/29	8/29 ⁺	8/29	8/29- 9/1	9/1	9/1	9/5			13 2 ⁺
3 1*	2 2 ⁺	3	3 ⁺	3 1*	3	3	3	2 1*	2	0	35 3* 5 ⁺

8/13	8/14	8/15	8/17	8/18	8/19	8/20	8/21	8/22	8/24	8/24 list	TOTALS
GUS NYDA NYDG ⁺	NYDA GUS GUS ⁺ NYDG ⁺	NYDA GUS	NYDA GUS GUS ⁺	GUS NYDA NYDA ⁺	NYJ NYDA GUS	GUS NYDA	NYDA GUS NYWM ⁺	NYDA GUS NYWM ⁺	GUS Mass. Cent.	NYDA	9 2* 2 ⁺
8/25	9/2 8/25 ⁺	9/2*	9/2 ⁺	9/2*	9/2	9/2	9/9	9/9			10 2 ⁺
8/26	8/26	8/26	8/26 ⁺							9/2	19 2* 2 ⁺
2	2 1 ⁺	1 1*	2 ⁺	1*	1	1	1	1	0	1	

NEW YORK

Date of Congressional Action	5/4	5/25	6/8	6/8 list	7/21	7/28	7/28 list	8/3	8/11
Original Newspaper Printings		NYDG NYDA GUS	GUS NYDA* NYDG* NYP*	NYDA NYDG GUS	GUS NYDA* NYDG*	GUS NYDA* NYDG+	NYDA	GUS NYDA+	GUS NYDA+
Albany Gazette			6/15*						
Country Journal	5/19		6/23*	6/23	8/4*		8/4	8/18+	
Daily Advertiser	5/5	5/26	6/9*	6/12	7/22*	7/29*	7/29	8/4+	8/13 8/13+
Daily Gazette	5/5	5/26	6/9*	6/13	7/22*	7/29 7/29+	7/30		
Federal Herald		6/8	6/15*	6/22	8/3	8/3*	8/10		8/17
Gazette of the United States		5/23-5/ 27	6/10	6/13	7/22	7/29 7/29+	8/1	8/5	8/12
Goshen Repository			6/23				8/11		
Hudson Weekly Gazette						8/6	8/6		
New York Journal	5/7	5/28	6/11	6/18	7/23	7/30 7/30+	7/30	8/6	8/13
New York Packet	5/7	5/28	6/9*	6/13	7/23	7/30*	7/30		8/13
New York Morning Post									8/13
New York Weekly Museum	5/9		6/13*	6/13	7/25*	8/1*	8/1		
NEW YORK TOTALS	6	6	3 7*	8	4 4*	4 4* 4+	10	2 2+	6 1+

8/13	8/14	8/15	8/17	8/18	8/19	8/20	8/21	8/22	8/24	8/24 list	TOTALS
GUS NYDA NYDG ⁺	NYDA GUS GUS ⁺ NYDG ⁺	NYDA GUS	NYDA GUS GUS ⁺	GUS NYDA NYDA ⁺	NYJ NYDA GUS	GUS NYDA	NYDA GUS NYWM ⁺	NYDA GUS NYWM ⁺	GUS Mass. Cent.	NYDA	
8/24	8/24									3/15/ 90	3 1*
8/25	8/25	9/1	9/1	9/1	9/1	9/1	9/1	9/8		9/1	13 2* 1+
8/14	8/15	8/17	8/18	8/19 8/22 ⁺	8/20	8/21	8/22	8/24		8/26	15 3* 3+
8/14 ⁺	8/15 ⁺		8/19	8/20 8/20*	8/21	8/22	8/24	8/22 ⁺ 8/25		8/27	12 3* 4+
8/24	8/24 ⁺ 8/24 ⁺									9/7	7 2* 2+
8/15	8/19 8/15 ⁺	8/19	8/19 ⁺ 8/22	8/19	8/22 8/22 ⁺	8/22	8/22	8/26	8/26	8/29	19 4+
											2
											2 1+
8/20*	8/20*	8/20	8/20 ⁺	8/20 9/10 ⁺ 8/20*	8/20	8/27	8/27	8/27*	8/27	8/27	16 4* 3+
8/15 ⁺	8/15 ⁺	8/18		8/20	8/20	8/22	8/22 ⁺	8/22 ⁺ 8/25		8/27	12 2* 4+
										8/27	2
8/15 ⁺	8/15 ⁺	8/22*	8/22 ⁺	8/22	8/22	8/22	8/22 ⁺	8/22 ⁺ 8/29			7 4* 5+
5 1* 3+	4 1* 6+	5 1*	4 3+	7 2* 2+	7 1+	7	5 2+	6 1* 3+	2	9	110 21* 27+

NORTH CAROLINA

Date of Congressional Action	5/4	5/25	6/8	6/8 list	7/21	7/28	7/28 list	8/3	8/11
Original Newspaper Printings			GUS NYDA*	NYDA NYDG	GUS NYDA*	GUS NYDA*		GUS NYDA ⁺	GUS NYDA ⁺
	GUS	GUS	NYP*	GUS	NYDG*	NYDG ⁺	NYDA		
Fayetteville Gazette				8/24			9/14		
State Gazette of North Carolina			7/9	6/25			8/20		9/3
NORTH CAROLINA TOTALS	0	0	1	2	0	0	2	0	1

8/13	8/14	8/15	8/17	8/18	8/19	8/20	8/21	8/22	8/24	8/24 list	TOTALS
GUS NYDA NYDG ⁺	NYDA GUS GUS ⁺ NYDG ⁺	NYDA GUS	NYDA GUS GUS ⁺	GUS NYDA NYDA ⁺	NYJ NYDA GUS	GUS NYDA	NYDA GUS NYWM ⁺	NYDA GUS NYWM ⁺	GUS Mass. Cent.	NYDA	
								9/21			3
						9/10	9/10 ⁺	9/10 ⁺		9/17	6 2 ⁺
0	0	0	0	0	0	1	1 ⁺	1 1 ⁺	0	1	9 2 ⁺

PENNSYLVANIA

Date of Congressional Action	5/4	5/25	6/8	6/8 list	7/21	7/28	7/28 list	8/3	8/11
Original Newspaper Printings				GUS NYDA*	NYDA NYDG	GUS NYDA*	GUS NYDA*		
	GUS	NYDG NYDA GUS	NYDG* NYP*	NYDG GUS	NYDG* NYDG*	NYDG* NYDG+	NYDA	GUS NYDA+	GUS NYDA+
Carlisle Gazette	5/13*	6/24	7/8*	7/1	8/26				
Federal Gazette	5/6*		6/15	6/16	7/23	7/30	7/31	8/7	8/14 8/17+
Freeman's Journal	5/11	6/3	6/17*	6/17	7/29	8/5	8/5	8/12+	8/19
Independent Gazetteer	5/7 5/8	5/29	6/16 6/12*	6/17	7/24	7/31	7/31	8/8	8/15
Pennsylvania Gazette	5/13		6/17	6/17	7/29	8/5 8/5+	8/12	8/12	8/19
Pennsylvania Herald		6/10	7/1*	7/1		8/12 8/12+	8/19		
Pennsylvania Journal									
Pennsylvania Mercury		5/30	6/13*	6/18	7/25	8/1 8/1+	8/6		
Pennsylvania Packet	5/8	5/28	6/12* 6/15	6/16	7/24		7/31	8/7+	8/14
Pittsburgh Gazette			7/11*	7/18			8/22		
American Museum Magazine		Dec.	Dec.				Dec. +		
Columbian Magazine		May*							
PENNSYLVANIA TOTALS	5 2*	7 1*	5 7*	9	7	6 4+	8	3 2+	5 1+

8/13	8/14	8/15	8/17	8/18	8/19	8/20	8/21	8/22	8/24	8/24 list	TOTALS
GUS NYDA NYDG ⁺	NYDA GUS GUS ⁺ NYDG ⁺	NYDA GUS	NYDA GUS GUS ⁺	GUS NYDA NYDA ⁺	NYJ NYDA GUS	GUS NYDA	NYDA GUS NYWM ⁺	NYDA GUS NYWM ⁺	GUS Mass. Cent.	NYDA	
	9/ 30 ⁺ *	9/30 ⁺ *	9/30 ⁺ *	9/30	9/30	9/30	9/30	10/7			8 3* 2 ⁺
8/17	8/19 8/18 ⁺	8/19	8/21	8/21	8/22	8/22	8/25	8/25	8/27	8/28	18 1* 2 ⁺
8/19 ⁺	8/26	8/26					9/2	9/2		9/2	12 1 2 ⁺
8/17 ⁺ 8/19	8/20 8/18 ⁺	8/20 8/19 [*]	8/22	8/21*	8/24	8/24	8/26	8/26	8/31	8/28	20 3* 2 ⁺
8/19*	8/26*	8/26*	8/26 ⁺	8/26	8/26	9/2	9/2	9/2		9/9	14 3* 2 ⁺
9/2 ⁺	9/9	9/9	9/9	9/16	9/16	9/16	9/16				11 1* 2 ⁺
8/26	9/2										2
8/18 ⁺	8/20 ⁺	8/22	8/22 ⁺	8/22	8/25		8/27			8/29	10 1* 4 ⁺
8/17 ⁺ 8/18 8/20	8/19	8/19	8/21 ⁺ 8/22	8/21 8/22 8/27 ⁺ 8/21*	8/24	8/27 8/24	8/26	8/26 9/1	8/28	8/28	22 2* 45 ⁺
											2 1*
Dec.	Dec.	Dec.	Dec.	Dec.		Dec.	Dec.				9 1 ⁺
											1*
6 1* 5 ⁺	7 1* 4 ⁺	7 3*	5 4 ⁺	8 2* 1 ⁺	7	8	9	7	3	6	128 17* 21 ⁺

RHODE ISLAND

Date of Congressional Action	5/4	5/25	6/8	6/8 list	7/21	7/28	7/28 list	8/3	8/11
Original Newspaper Printings			GUS NYDA*	NYDA NYDG	GUS NYDA*	GUS NYDA*		GUS NYDA ⁺	GUS NYDA ⁺
	GUS	GUS	NYP*	GUS	NYDG*	NYDG ⁺	NYDA		
Newport Herald	5/18			6/18			8/13		
Newport Mercury			6/15			8/12	8/12		8/26 ⁺
Providence Gazette	5/16	6/6	6/20	6/20	8/1 7/25*	8/15 8/15 ⁺	8/8	8/15	
United States Chronicle		6/4	7/2 6/18*	6/25			8/13	8/13	8/27
RHODE ISLAND TOTALS	2	2	3 1*	3	1 1*	2 1⁺	4	2	1 1⁺

VERMONT

Date of Congressional Action	5/4	5/25	6/8	6/8 list	7/21	7/28	7/28 list	8/3	8/11
Original Newspaper Printings			GUS NYDA*	NYDA NYDG	GUS NYDA*	GUS NYDA*		GUS NYDA ⁺	GUS NYDA ⁺
	GUS	GUS	NYP*	GUS	NYDG*	NYDG ⁺	NYDA		
Vermont Gazette				6/29					
Vermont Journal				7/15					
VERMONT TOTALS	0	0	0	2	0	0	0	0	0

8/13	8/14	8/15	8/17	8/18	8/19	8/20	8/21	8/22	8/24	8/24 list	TOTALS
GUS NYDA NYDG+	NYDA GUS GUS+ NYDG+	NYDA GUS	NYDA GUS GUS+	GUS NYDA NYDA+	NYJ NYDA GUS	GUS NYDA	NYDA GUS NYWM+	NYDA GUS NYWM+	GUS Mass. Cent.	NYDA	3
8/26+	8/26+ 8/26+	8/26*	8/26	8/26						9/2	6 1* 4+
8/29*	8/29**	9/5	9/5+	9/5 9/5*	9/5						11 3* 3+
8/27	8/27+	8/27	9/3 9/3+	9/17+ 9/3*	9/3	9/3	9/3		9/17	9/17	14 2* 3+
1 1* 1+	4+	2 1*	2 2+	2 2* 1+	2	1	1	0	1	2	34 6* 10+

8/13	8/14	8/15	8/17	8/18	8/19	8/20	8/21	8/22	8/24	8/24 list	TOTALS
GUS NYDA NYDG+	NYDA GUS GUS+ NYDG+	NYDA GUS	NYDA GUS GUS+	GUS NYDA NYDA+	NYJ NYDA GUS	GUS NYDA	NYDA GUS NYWM+	NYDA GUS NYWM+	GUS Mass. Cent.	NYDA	2
9/16*	9/16*	9/16*	9/16	9/23	9/23	9/23	9/23	9/23		9/7 9/23	8 3* 10 3*
1*	1*	1*	1	1	1	1	1	1	0	2	10 3*

VIRGINIA

Date of Congressional Action	5/4	5/25	6/8	6/8 list	7/21	7/28	7/28 list	8/3	8/11
Original Newspaper Printings		NYDG NYDA GUS	GUS NYDA* NYDG* NYP*	NYDA NYDG GUS	GUS NYDA* NYDG*	GUS NYDA* NYDG+	NYDA	GUS NYDA+	GUS NYDA+
Virginia Centinel			6/24		8/5 8/5*			8/19	
Alexandria Virginia Gazette									
Richmond Virginia Gazette							8/13		
Winchester Virginia Gazette		6/10	6/24*	6/24	8/5		8/12		
Virginia Herald	5/21				8/6		8/13	8/20+	
Virginia Independent Chronicle	5/13 6/13	6/24	7/1 6/24*	6/24	8/5	8/12 8/12+	8/12		8/26
VIRGINIA TOTALS	3	2	2 2*	2	4 1*	1 1+	4	1 1+	1

8/13	8/14	8/15	8/17	8/18	8/19	8/20	8/21	8/22	8/24	8/24 list	TOTALS
GUS NYDA NYDG ⁺	NYDA GUS GUS ⁺ NYDG ⁺	NYDA GUS	NYDA GUS GUS ⁺	GUS NYDA NYDA ⁺	NYJ NYDA GUS	GUS NYDA	NYDA GUS NYWM ⁺	NYDA GUS NYWM ⁺	GUS Mass. Cent.	NYDA	
8/26 ⁺	9/2 ⁺	9/2	9/2	9/2						9/9	7 1* 2 ⁺
		9/3	9/3	9/3	9/3	9/3	9/3	9/10		9/10	8
										9/10	2
9/2*	9/2* 9/9					9/16					6 3*
		9/3*	9/3	9/3	9/3	9/3	9/3	9/3			9 1* 1 ⁺
9/2 ⁺	9/2	9/2	9/2 ⁺	9/2 9/2*		9/9	9/9	9/9		9/9	16 2* 3 ⁺
1* 2 ⁺	2 1* 1 ⁺	3 1*	3 1 ⁺	4 1*	2	4	3	3	0	4	48 7* 6 ⁺

U.S. House of Representatives, 1789

Frederick A. Muhlenberg, *Speaker*

John J. Beckley, *Clerk*

NEW HAMPSHIRE

Abiel Foster
Nicholas Gilman
Samuel Livermore

MASSACHUSETTS

Fisher Ames
Benjamin Goodhue
Elbridge Gerry
Jonathan Grout
George Leonard
George Partridge
Theodore Sedgwick
George Thatcher

CONNECTICUT

Benjamin Huntington
Roger Sherman
Jonathan Sturges
Jonathan Trumbull
Jeremiah Wadsworth

NEW YORK

Egbert Benson
William Floyd
John Hathorn
John Laurance
Peter Silvester
Jeremiah Van Rensselaer

NEW JERSEY

Elias Boudinot
Lambert Cadwalader
James Schureman
Thomas Sinnickson

DELAWARE

John Vining

PENNSYLVANIA

George Clymer

Thomas FitzSimons

Thomas Hartley
Daniel Hiester
Frederick A. Muhlenberg
Peter Muhlenberg
Thomas Scott
Henry Wynkoop

MARYLAND

Daniel Carroll
Benjamin Contee
George Gale
Michael Jenifer Jones
Joshua Seney
William Smith

VIRGINIA

Theodorick Bland
John Brown
Isaac Coles
Samuel Griffin
Richard Bland Lee
James Madison
Andrew Moore
John Page
Josiah Parker
Alexander White

SOUTH CAROLINA

Aedanus Burke
Daniel Huger
William Loughton Smith
Thomas Sumter
Thomas Tudor Tucker

GEORGIA

Abraham Baldwin
James Jackson
George Mathews

U.S. Senate, 1789

John Langdon, *President Pro Tempore*
Samual A. Otis, *Secretary of the Senate*

NEW HAMPSHIRE

John Langdon
Paine Wingate

MASSACHUSETTS

Tristram Dalton
Caleb Strong

CONNECTICUT

Oliver Ellsworth
William Samuel Johnson

NEW YORK

Rufus King
Philip Schuyler

NEW JERSEY

Jonathan Elmer
William Paterson

DELAWARE

Richard Bassett
George Read

PENNSYLVANIA

William Maclay
Robert Morris

MARYLAND

Charles Carroll of Carrollton
John Henry

VIRGINIA

William Grayson
Richard Henry Lee

SOUTH CAROLINA

Pierce Butler
Ralph Izard

GEORGIA

William Few
James Gunn

The Proceedings of Congress

House Proceedings, Tuesday, 4 May 1789¹

Before the house adjourned, Mr. [James] Madison gave notice, that he intended to bring on the subject of amendments to the constitution, on the 4th Monday of this month.

1. *Congressional Register*, I, 196. Reports of Madison's intention to submit amendments were printed in several newspapers. The *Gazette of the United States*, 2–6 May, reported that "Mr. Madison gave notice, that on the fourth Monday of the present month, he should introduce the subject of amendments to the Constitution; agreeably to the fifth article of the Constitution. He thought it necessary thus early to mention the business, as it was weighty and important, and upon motion, the time proposed by the gentleman was assigned." This account was reprinted ten times by 15 June: Mass. (1), Conn. (2), N.Y. (1), Pa. (3), Md. (1), Va. (1), Ga. (1). A similar account appeared in the New York *Daily Advertiser*, 5 May, that was reprinted in the Poughkeepsie *Country Journal*, 19 May. Another similar account appeared in the Philadelphia *Independent Gazetteer*, 7 May, and was reprinted in the *Virginia Independent Chronicle*, 13 May, and the *Georgia Gazette*, 28 May. The New York *Daily Gazette*, 5 May, reported that "On motion of Mr. Madison—Ordered that the 4th Monday in May be assigned for the consideration of the exercise of the powers vested in Congress by the 5th article of the constitution relative to amendments." Reprinted twelve times by 3 June: Mass. (5), R.I. (2), N.Y. (2), Pa. (2), Va. (1). An "Extract of a letter from New York, dated 4th inst.," printed in the Philadelphia *Federal Gazette*, 6 May, and reprinted in the Pennsylvania *Carlisle Gazette*, 13 May, stated that "It is delayed for so long a time, in order that gentlemen may prepare themselves for a decision, and dispatch in the mean time the more pressing business of revenue." And the Philadelphia *Columbian Magazine* added: "But on the arrival of that day, however, a number of reasons induced him to postpone the intended motion till that day fortnight—when we may look for the discussion of this important subject."

Tristram Lowther, a North Carolina merchant, while visiting New York City, attended the sessions of Congress. He wrote to James Iredell on 9 May 1789:

As for Madison, of whom I had formed the highest expectations, I have had very little opportunity of forming an opinion, for whenever he has spoke, while I have been attending, it has been in so low a tone of voice, that I could not well distinguish what he said; his voice appears too defective for so large a man; however, I shall be better able to judge when he brings forward his motion for considering the article of the constitution respecting amendments, which he intends on the 4th Monday of this month. This has excited general expectation, though it appears to be the general opinion of people out of doors that nothing will be done; and is the more probable from the debates which took place when Col. Bland presented the application of the Virginia Legislature, when it was strongly contended by Mr. Boudinot, supported by a number of members, that the application should be laid on the table, and that Congress ought not to take notice of any such applications until they were made by the number of States required by the constitution (Charles E. Johnson Collection, North Carolina State Archives).

House Proceedings, Monday, 25 May 1789¹

The house being met,

Mr. Madison remarked, that he had some time since given notice, that he intended to call the attention of the house on this day to the consideration of the subject placed within the power of Congress by the 5th article of the constitution. He had named a distant day for two reasons—one, to give the members time to make up their minds; and the other, to give the house time to go through the impost business. The latter object was unaccomplished, inasmuch as a great deal remained to be done; and from what he had heard fall from gentlemen near him, he was inclined to believe a further delay would be agreeable to their inclination; wherefore he should inform the house that he did not mean to call up that subject until this day fortnight: Whereupon it was unanimously agreed to postpone the consideration thereof until Monday the 8th June.

1. Printed: New York *Daily Gazette*, 26 May. Reprinted: *New York Packet*, 28 May; Connecticut *Norwich Packet*, 12 June. Two other versions of these proceedings were printed in the New York *Daily Advertiser*, 26 May, and the *Gazette of the United States*, 23–27 May. The *Advertiser* version was reprinted in twelve newspapers by 24 June: R.I. (2), Conn. (1), N.Y. (1), Pa. (5), Md. (1), Va. (2), and in the December issue of the Philadelphia *American Museum*. The *Gazette of the United States* version was reprinted twelve times by 13 July: N.H. (3), Mass. (4), Conn. (3), N.Y. (1), Pa. (1).

House Debates, Monday, 8 June 1789¹

JAMES MADISON [Virginia]

This day Mr. Speaker, is the day assigned for taking into consideration the subject of amendments to the constitution. As I considered myself bound in honor and in duty to do what I have done on this subject, I shall proceed to bring the amendments before you as soon as possible, and advocate them until they shall be finally adopted or rejected by a constitutional majority of this house.² With a view of drawing your attention to this important object, I shall move, that this house do now resolve itself into a committee of the whole, on the state of the union, by which an opportunity will be given, to bring forward some propositions which I have strong hopes, will meet the unanimous approbation of this house, after the fullest discussion and most serious regard. I therefore move you, that the house now go into a committee on this business.

WILLIAM LOUGHTON SMITH [South Carolina]

Was not inclined to interrupt the measures which the public were so anxiously expecting, by going into a committee of the whole at this

time. He observed there were two modes of introducing this business to the house: One by appointing a select committee to take into consideration the several amendments proposed by the state conventions; this he thought the most likely way to shorten the business. The other was, that the gentleman should lay his propositions on the table, for the consideration of the members; that they should be printed, and taken up for discussion at a future day. Either of these modes would enable the house to enter upon the business better prepared than could be the case by a sudden transition from other important concerns to which their minds were strongly bent. He therefore hoped the honorable gentleman would consent to bring the subject forward in one of those ways, in preference to going into a committee of the whole. For, said he, it must appear extremely impolitic to go into the consideration of amending the government, before it is organized, before it has begun to operate; certainly upon reflection it must appear to be premature. I wish, therefore, gentlemen will consent to the delay: for the business which lies in an unfinished state—I mean particularly the collection bill—is necessary to be passed; else all we have hitherto done is of no effect. If we go into the discussion of this subject, it will take us three weeks or a month; and during all this time every other business must be suspended, because we cannot proceed with either accuracy or dispatch when the mind is perpetually shifted from one subject to another.

JAMES JACKSON [Georgia]

I am of opinion we ought not to be in a hurry with respect to altering the constitution. For my part I have no idea of speculating in this serious manner on theory; if I agree to alterations in the mode of administering this government, I shall like to stand on the sure ground of experience, and not be treading air. What experience have we had of the good or bad qualities of this constitution? Can any gentleman affirm to me one proposition that is a certain and absolute amendment? I deny that he can. Our constitution, sir, is like a vessel just launched, and lying at the wharf, she is untried, you can hardly discover any one of her properties; it is not known how she will answer her helm, or lay her course; whether she will bear in safety the precious freight to be deposited in her hold. But, in this state, will the prudent merchant attempt alterations? Will he employ two thousand workmen to tear off the planking and take asunder the frame? He certainly will not. Let us gentlemen, fit out our vessel, set up her masts, and expand her sails, and be guided by the experiment in our alterations. If she sails upon an uneven keel, let us right her by adding weight where it

is wanting. In this way, we may remedy her defects to the satisfaction of all concerned; but if we proceed now to make alterations, we may deface a beauty, or deform a well proportioned piece of workmanship; in short, Mr. Speaker, I am not for amendments at this time, but if gentlemen should think it a subject deserving of attention, they will surely not neglect the more important business, which is now unfinished before them. Without we pass the collection bill, we can get no revenue, and without revenue the wheels of government cannot move. I am against taking up the subject at present, and shall therefore be totally against the amendments, if the government is not organized, that I may see whether it is grievous or not.

When the propriety of making amendments shall be obvious from experience, I trust there will be virtue enough in my country to make them. Much has been said by the opponents to this constitution, respecting the insecurity of jury trials, that great bulwark of personal safety; all their objections may be done away, by proper regulations on this point, and I do not fear but such regulations will take place. The bill is now before the senate, and a proper attention is shewn to this business. Indeed I cannot conceive how it could be opposed; I think an almost omnipotent emperor would not be hardy enough to set himself against it. Then why should we fear a power which cannot be improperly exercised.

We have proceeded to make some regulations under the constitution, but have met with no inaccuracy unless it may be said, that the clause respecting “vessels bound to or from one state be obliged to enter, clear, or pay duties in another,” is somewhat obscure, yet there is not sufficient, I trust, in any gentleman’s opinion to induce an amendment. But let me ask what will be the consequence of taking up this subject? are we going to finish it in an hour? I believe not; it will take us more than a day, a week, a month—it will take a year to complete it! and will it be doing our duty to our country to neglect or delay putting the government in motion, when every thing depends upon its being speedily done?

Let the constitution have a fair trial, let it be examined by experience, discover by that test what its errors are, and then talk of amending; but to attempt it now is doing it at risk, which is certainly imprudent. I have the honor of coming from a state that ratified the constitution by the unanimous vote of a numerous convention:³ the people of Georgia have manifested their attachment to it, by adopting a state constitution framed upon the same plan as this.⁴ But although they are thus satisfied, I shall not be against such amendments as will gratify the inhabitants of other states, provided they are judged of by experience and

not theory. For this reason I wish the consideration of the subject postponed until the first of March, 1790.

BENJAMIN GOODHUE [Massachusetts]

I believe it would be perfectly right in the gentleman who spoke last, to move a postponement to the time he has mentioned; because he is opposed to the consideration of amendments altogether. But I believe it will be proper to attend to the subject earlier; because it is the wish of many of our constituents that something should be added to the constitution to secure in a stronger manner their liberties from the inroads of power. Yet I think the present time premature; inasmuch as we have other business before us, which is incomplete, but essential to the public interest; when that is finished, I shall concur in taking up the subject of amendments.

AEDANUS BURKE [South Carolina]

Thought amendments to the constitution necessary, but this was not the proper time to bring them forward; he wished the government completely organized before they entered upon this ground: The law for collecting the revenue was immediately necessary, the treasury department must be established; till these, and other important subjects were determined, he was against taking this up. He said it might interrupt the harmony of the house, which was necessary to be preserved to dispatch the great objects of legislation. He hoped it would be postponed for the present, and pledged himself to bring it forward again, if nobody else would.

JAMES MADISON [Virginia]

The gentleman from Georgia (Mr. Jackson) is certainly right in his opposition to my motion for going into a committee of the whole, because he is unfriendly to the object I have in contemplation; but I cannot see that the gentlemen, who wish for amendments being proposed at the present session, stand on good ground when they object to the house going into committee on this business.

When I first hinted to the house my intention of calling their deliberations to this object, I mentioned the pressure of other important subjects, and submitted the propriety of postponing this till the more urgent business was dispatched; but finding that business not dispatched, when the order of the day for considering amendments arrived, I thought it a good reason for a farther delay, I moved the postponement accordingly.⁵ I am sorry the same reason still exists in some degree; but operates with less force when it is considered, that it is not now proposed to enter into a full and minute discussion of every part of the

subject, but merely to bring it before the house, that our constituents may see we pay a proper attention to a subject they have much at heart; and if it does not give that full gratification which is to be wished, they will discover that it proceeds from the urgency of business of a very important nature. But if we continue to postpone from time to time, and refuse to let the subject come into view, it may occasion suspicions, which, though not well founded, may tend to inflame or prejudice the public mind, against our decisions: they may think we are not sincere in our desire to incorporate such amendments in the constitution as will secure those rights, which they consider as not sufficiently guarded. The applications for amendments come from a very respectable number of our constituents, and it is certainly proper for congress to consider the subject, in order to quiet that anxiety which prevails in the public mind: Indeed I think it would have been of advantage to the government, if it had been practicable to have made some propositions for amendments the first business we entered upon; it would stifle the voice of complaint, and make friends of many who doubted its merits. Our future measures would then have been more universally agreeable and better supported; but the justifiable anxiety to put the government in operation prevented that; it therefore remains for us to take it up as soon as possible. I wish then to commence the consideration at the present moment; I hold it to be my duty to unfold my ideas, and explain myself to the house in some form or other without delay. I only wish to introduce the great work, and as I said before I do not expect it will be decided immediately; but if some step is taken in the business it will give reason to believe that we may come at a final result. This will inspire a reasonable hope in the advocates for amendments, that full justice will be done to the important subject; and I have reason to believe their expectation will not be defeated. I hope the house will not decline my motion for going into a committee.

ROGER SHERMAN [Connecticut]

I am willing that this matter should be brought before the house at a proper time. I suppose a number of gentlemen think it their duty to bring it forward; so that there is no apprehension it will be passed over in silence: Other gentlemen may be disposed to let the subject rest until the more important objects of government are attended to; and I should conclude from the nature of the case, that the people expect the latter of us in preference of altering the constitution; because they have ratified that instrument, in order that the government may begin to operate. If this was not their wish, they might as well have rejected the constitution, as North-Carolina has done, until the amendments

took place. The state I have the honor to come from, adopted this system by a very great majority, because they wished for the government; but they desired no amendments.⁶ I suppose this was the case in other states; it will therefore be imprudent to neglect much more important concerns for this. The executive part of the government wants organization; the business of the revenue is incomplete, to say nothing of the judiciary business. Now, will gentlemen give up these points to go into a discussion of amendments when no advantage can arise from them? for my part, I question if any alteration which can be now proposed would be an amendment in the true sense of the word; but nevertheless I am willing to let the subject be introduced; if the gentleman only desires to go into committee for the purpose of receiving his propositions, I shall consent; but I have strong objections to being interrupted in completing the more important business; because I am well satisfied it will alarm the fears of twenty of our constituents where it will please one.

ALEXANDER WHITE [Virginia]

I hope the house will not spend much time on this subject till the more pressing business is dispatched, but, at the same time, I hope we shall not dismiss it altogether; because I think a majority of the people, who have ratified the constitution, did it under an expectation that congress would, at some convenient time, examine its texture, and point out where it was defective, in order that it might be judiciously amended. Whether, while we are without experience, amendments can be digested in such a manner as to give satisfaction to a constitutional majority of this house [i.e., a two-thirds vote], I will not pretend to say, but I hope the subject may be considered with all convenient speed, I think it would tend to tranquilize the public mind; therefore I shall vote in favor of going into a committee of the whole, and after receiving the subject shall be content to refer it to a special committee to arrange and report. I fear if we refuse to take up the subject it will irritate many of our constituents, which I do not wish to do: If we cannot, after mature consideration, gratify their wishes, the cause of complaint will be lessened if not removed; but a doubt on this head will not be a good reason why we should refuse to enquire. I do not say this as it affects my immediate constituents, because I believe a majority of the district which elected me do not require alterations; but I know there are people in other parts who will not be satisfied unless some amendments are proposed.

WILLIAM LOUGHTON SMITH [South Carolina]

Thought the gentleman who brought forward the subject had done his duty: He had supported his motion with ability and candor, and if

he did not succeed he was not to blame. On considering what had been urged for going into a committee, he was induced to join the gentleman; but it would be merely to receive his propositions, after which he would move something to this effect:—That however desirous this house may be to go into the consideration of amendments to the constitution, in order to establish the liberties of the people of America on the securest foundation; yet the important and pressing business of the government, prevents their entering upon that subject at present.

JOHN PAGE [Virginia]

My colleague tells you, he is ready to submit to the committee of the whole, his ideas on this subject; if no objection had been made to his motion, the whole business might have been finished before this. He has done me the honor of shewing me certain propositions which he has drawn up, they are very important, and I sincerely wish the house may receive them. After they are published, I think the people will wait with patience till we are at leisure to resume them: but it must be very disagreeable to them to have it postponed from time to time, in the manner it has been, for six weeks past, they will be tired out by a fruitless expectation. Putting myself into the place of those who favor amendments, I should suspect Congress did not mean seriously to enter upon the subject; that it was vain to expect redress from them; I should begin to turn my attention to the alternative contained in the fifth article, and think of joining the legislatures of those states which have applied for calling a new convention.⁷ How dangerous such an expedient would be, I need not mention, but I venture to affirm, that unless you take early notice of this subject, you will not have power to deliberate. The people will clamor for a new convention, they will not trust the house any longer; those therefore, who dread the assembling of a convention, will do well to acquiesce in the present motion, and lay the foundation of a most important work. I do not think we need consume more than half an hour in the committee of the whole; this is not so much time but we may conveniently spare it, considering the nature of the business. I do not wish to divert the attention of congress from the organization of the government, nor do I think it need be done, if we comply with the present motion.

JOHN VINING [Delaware]

I hope the house will not go into a committee of the whole. It strikes me that the great amendment which the government wants, is expedition in the dispatch of business. The wheels of the national machine cannot turn, until the impost and collection bill are perfected; these are the desiderata, which the public mind is anxiously expecting. It is well known, that all we have hitherto done, is tantamount to nothing,

if we leave the business in its present state—true—but say gentlemen, let us go into committee, it will take up but a short time, yet may it not take a considerable proportion of our time? May it not be procrastinated into days, weeks, nay months itself? It is not the most facile subject that can come before the legislature of the union. Gentlemen’s opinions do not run in a parallel on this topic; it may take up more time to unite or concenter them, than is now imagined; and what object is to be attained by going into a committee? If information is what we seek after, cannot that be obtained by the gentleman’s laying his propositions on the table; they can be read, or they can be printed. But I have two other reasons for opposing this motion; the first is, the uncertainty with which we must decide on questions of amendment, founded merely on speculative theory; the second is a previous question—how far it is proper to take the subject of amendments into consideration, without the consent of two-thirds of both houses. I will submit it to gentlemen, whether the words of the constitution, “the congress whenever two-thirds of both houses shall deem necessary, shall propose amendments,” do not bear my construction, that it is as requisite for two-thirds, to sanction the expediency of going into the measure at present, as it will be to determine the necessity of amending at all. I take it, that the fifth article admits of this construction, and think that two-thirds of the senate and house of representatives must concur in the expediency, as to the time and manner of amendments, before we can proceed to the consideration of the amendments themselves; for my part, I do not see the expediency of proposing amendments. I think, sir, the most likely way to quiet the perturbation of the public mind, will be to pass salutary laws; to give permanency and stability to constitutional regulations, founded on principles of equity, and adjusted by wisdom. Altho’ hitherto we have done nothing to tranquilize that agitation which the adoption of the constitution threw some people into, yet, the storm has abated, and a calm succeeds. The people are not afraid of leaving the question of amendments, to the discussion of their representatives; but is this the juncture, for discussing it? What have congress done toward completing the business of their appointment? They have passed a law regulating certain oaths; they have passed the impost bill; but are not vessels daily arriving, and the revenue slipping thro’ our fingers? is it better than madness in us to neglect the completion of the revenue system? Is the system of jurisprudence unnecessary? and here let me ask gentlemen, how they propose to amend that part of the constitution which embraces the judicial branch of government, when they do not know the regulations proposed by the senate, who are forming a bill on this subject.

If the honorable mover of the question before the house, does not think he discharges his duty without bringing his propositions before the house, let him take the mode I have mentioned, by which there will be little loss of time. He knows as well as any gentleman, the importance of completing the business on your table, and that it is best to finish one subject before the introduction of another; he will not, therefore, persist in a motion which tends to distract our minds, and incapacitates us from making a proper decision on any subject. Suppose every gentleman who desired alterations to be made in the constitution, was to submit his propositions also to a committee of the whole, what would be the consequence? We should have strings of them contradictory to each other, and necessarily engaged in a discussion that would consume too much of our precious time.

Though the state I represent had the honor of taking the lead in the adoption of this constitution, and did it by an unanimous vote; and although I have the strongest predilection for the present form of government; yet I am open to information, and willing to be convinced of its imperfections; if this is done, I shall cheerfully assist in correcting them. But I cannot think this a proper time to enter upon the subject; because more important business is suspended; and for want of experience we are as likely to do injury by our prescriptions as good. I wish to see every proposition which comes from that worthy gentleman on the science of government; but I think it can be presented better by staying where we are than by going into committee, and therefore shall vote against his motion.

JAMES MADISON [Virginia]

I am sorry to be accessory to the loss of a single moment of time by the house. If I had been indulged in my motion, and we had gone into a committee of the whole, I think we might have rose, and resumed the consideration of other business before this time; that is, so far as it depended on what I proposed to bring forward. As that mode seems not to give satisfaction, I will withdraw the motion, and move you, sir, that a select committee be appointed to consider and report such amendments as are proper for Congress to propose to the legislatures of the several States, conformably to the 5th article of the constitution. I will state my reasons why I think it proper to propose amendments; and state the amendments themselves, so far as I think they ought to be proposed. If I thought I could fulfill the duty which I owe to myself and my constituents, to let the subject pass over in silence, I most certainly should not trespass upon the indulgence of this house. But I cannot do this; and am therefore compelled to beg a patient hearing to what

I have to lay before you. And I do most sincerely believe that if congress will devote but one day to this subject, so far as to satisfy the public that we do not disregard their wishes, it will have a salutary influence on the public councils, and prepare the way for a favorable reception of our future measures. It appears to me that this house is bound by every motive of prudence, not to let the first session pass over without proposing to the state legislatures some things to be incorporated into the constitution, as will render it as acceptable to the whole people of the United States, as it has been found acceptable to a majority of them. I wish, among other reasons why something should be done, that those who have been friendly to the adoption of this constitution, may have the opportunity of proving to those who were opposed to it, that they were as sincerely devoted to liberty and a republican government, as those who charged them with wishing the adoption of this constitution in order to lay the foundation of an aristocracy or despotism. It will be a desirable thing to extinguish from the bosom of every member of the community any apprehensions, that there are those among his countrymen who wish to deprive them of the liberty for which they valiantly fought and honorably bled. And if there are amendments desired, of such a nature as will not injure the constitution, and they can be ingrafted so as to give satisfaction to the doubting part of our fellow citizens; the friends of the federal government will evince that spirit of deference and concession for which they have hitherto been distinguished.

It cannot be a secret to the gentlemen in this house, that, notwithstanding the ratification of this system of government by eleven of the thirteen United States, in some cases unanimously, in others by large majorities; yet still there is a great number of our constituents who are dissatisfied with it; among whom are many respectable for their talents, their patriotism, and respectable for the jealousy they have for their liberty, which, though mistaken in its object, is laudable in its motive. There is a great body of the people falling under this description, who at present feel much inclined to join their support to the cause of federalism, if they were satisfied in this one point: We ought not to disregard their inclination, but, on principles of amity and moderation, conform to their wishes, and expressly declare the great rights of mankind secured under this constitution. The acquiescence which our fellow citizens shew under the government, calls upon us for a like return of moderation. But perhaps there is a stronger motive than this for our going into a consideration of the subject; it is to provide those securities for liberty which are required by a part of the community, I allude in a particular manner to those two states who have not thought fit to

throw themselves into the bosom of the confederacy: it is a desirable thing, on our part as well as theirs, that a re-union should take place as soon as possible. I have no doubt, if we proceed to take those steps which would be prudent and requisite at this juncture, that in a short time we should see that disposition prevailing in those states that are not come in, that we have seen prevailing in those states which are.

But I will candidly acknowledge, that, over and above all these considerations, I do conceive that the constitution may be amended; that is to say, if all power is subject to abuse, that then it is possible the abuse of the powers of the general government may be guarded against in a more secure manner than is now done, while no one advantage, arising from the exercise of that power, shall be damaged or endangered by it. We have in this way something to gain, and, if we proceed with caution, nothing to lose; and in this case it is necessary to proceed with caution; for while we feel all these inducements to go into a revisal of the constitution, we must feel for the constitution itself, and make that revisal a moderate one. I should be unwilling to see a door opened for a re-consideration of the whole structure of the government, for a re-consideration of the principles and the substance of the powers given; because I doubt, if such a door was opened, if we should be very likely to stop at that point which would be safe to the government itself: But I do wish to see a door opened to consider, so far as to incorporate those provisions for the security of rights, against which I believe no serious objection has been made by any class of our constituents. Such as would be likely to meet with the concurrence of two-thirds of both houses, and the approbation of three-fourths of the state legislatures. I will not propose a single alteration which I do not wish to see take place, as intrinsically proper in itself, or proper because it is wished for by a respectable number of my fellow citizens; and therefore I shall not propose a single alteration but is likely to meet the concurrence required by the constitution.

There have been objections of various kinds made against the constitution: Some were levelled against its structure, because the president was without a council; because the senate, which is a legislative body, had judicial powers in trials on impeachments; and because the powers of that body were compounded in other respects, in a manner that did not correspond with a particular theory; because it grants more power than is supposed to be necessary for every good purpose; and controuls the ordinary powers of the state governments. I know some respectable characters who opposed this government on these grounds; but I believe that the great mass of the people who opposed it, disliked it because it did not contain effectual provision against

encroachments on particular rights, and those safeguards which they have been long accustomed to have interposed between them and the magistrate who exercised the sovereign power: nor ought we to consider them safe, while a great number of our fellow citizens think these securities necessary.

It has been a fortunate thing that the objection to the government has been made on the ground I stated; because it will be practicable on that ground to obviate the objection, so far as to satisfy the public mind that their liberties will be perpetual, and this without endangering any part of the constitution, which is considered as essential to the existence of the government by those who promoted its adoption.

The amendments which have occurred to me, proper to be recommended by congress to the state legislatures, are these:⁸

First. That there be prefixed to the constitution a declaration—That all power is originally vested in, and consequently derived from the people.

That government is instituted, and ought to be exercised for the benefit of the people; which consists in the enjoyment of life and liberty, with the right of acquiring and using property, and generally of pursuing and obtaining happiness and safety.

That the people have an indubitable, unalienable, and indefeasible right to reform or change their government, whenever it be found adverse or inadequate to the purposes of its institution.

Secondly. That in article 1st. section 2, clause 3, these words be struck out, to wit, “The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative, and until such enumeration shall be made.” And that in place thereof be inserted these words, to wit, “After the first actual enumeration, there shall be one representative for every thirty thousand, until the number amount to after which the proportion shall be so regulated by congress, that the number shall never be less than nor more than but each state shall after the first enumeration, have at least two representatives; and prior thereto.”

Thirdly. That in article 1st, section 6, clause 1, there be added to the end of the first sentence, these words, to wit, “But no law varying the compensation last ascertained shall operate before the next ensuing election of representatives.”

Fourthly. That in article 1st, section 9, between clauses 3 and 4, be inserted these clauses, to wit, The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext infringed.

The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable.

The people shall not be restrained from peaceably assembling and consulting for their common good; nor from applying to the legislature by petitions, or remonstrances for redress of their grievances.

The right of the people to keep and bear arms shall not be infringed; a well armed, and well regulated militia being the best security of a free country: but no person religiously scrupulous of bearing arms, shall be compelled to render military service in person.

No soldier shall in time of peace be quartered in any house without the consent of the owner; nor at any time, but in a manner warranted by law.

No person shall be subject, except in cases of impeachment, to more than one punishment, or one trial for the same offence; nor shall be compelled to be a witness against himself; nor be deprived of life, liberty, or property without due process of law; nor be obliged to relinquish his property, where it may be necessary for public use, without a just compensation.

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

The rights of the people to be secured in their persons, their houses, their papers, and their other property from all unreasonable searches and seizures, shall not be violated by warrants issued without probable cause, supported by oath or affirmation, or not particularly describing the places to be searched, or the persons or things to be seized.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, to be informed of the cause and nature of the accusation, to be confronted with his accusers, and the witnesses against him; to have a compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

The exceptions here or elsewhere in the constitution, made in favor of particular rights, shall not be so construed as to diminish the just importance of other rights retained by the people; or as to enlarge the powers delegated by the constitution; but either as actual limitations of such powers, or as inserted merely for greater caution.

Fifthly. That in article 1st, section 10, between clauses 1 and 2, be inserted this clause, to wit:

No state shall violate the equal rights of conscience, or the freedom of the press, or the trial by jury in criminal cases.

Sixthly. That article 3d, section 2, be annexed to the end of clause 2d, these words to wit: but no appeal to such court shall be allowed where

the value in controversy shall not amount to dollars: nor shall any fact triable by jury, according to the course of common law, be otherwise re-examinable than may consist with the principles of common law.

Seventhly. That in article 3d, section 2, the third clause be struck out, and in its place be inserted the clauses following, to wit:

The trial of all crimes (except in cases of impeachments, and cases arising in the land or naval forces, or the militia when on actual service in time of war or public danger) shall be by an impartial jury of freeholders of the vicinage, with the requisite of unanimity for conviction, of the right of challenge, and other accustomed requisites; and in all crimes punishable with loss of life or member, presentment or indictment by a grand jury, shall be an essential preliminary, provided that in cases of crimes committed within any county which may be in possession of an enemy, or in which a general insurrection may prevail, the trial may by law be authorised in some other county of the same state, as near as may be to the seat of the offence.

In cases of crimes committed not within any county, the trial may by law be in such county as the laws shall have prescribed. In suits at common law, between man and man, the trial by jury, as one of the best securities to the rights of the people, ought to remain inviolate.

Eighthly. That immediately after article 6th, be inserted, as article 7th, the clauses following, to wit;

The powers delegated by this constitution, are appropriated to the departments to which they are respectively distributed: so that the legislative department shall never exercise the powers vested in the executive or judicial; nor the executive exercise the powers vested in the legislative or judicial; nor the judicial exercise the powers vested in the legislative or executive departments.

The powers not delegated by this constitution, nor prohibited by it to the states, are reserved to the States respectively.

Ninthly. That article 7th, be numbered as article 8th.

The first of these amendments, relates to what may be called a bill of rights; I will own that I never considered this provision so essential to the federal constitution, as to make it improper to ratify it, until such an amendment was added; at the same time, I always conceived, that in a certain form and to a certain extent, such a provision was neither improper nor altogether useless. I am aware, that a great number of the most respectable friends to the government and champions for republican liberty, have thought such a provision, not only unnecessary, but even improper, nay, I believe some have gone so far as to think it even dangerous. Some policy has been made use of perhaps by gentlemen on both sides of the question: I acknowledge the ingenuity

of those arguments which were drawn against the constitution, by a comparison with the policy of Great-Britain, in establishing a declaration of rights; but there is too great a difference in the case to warrant the comparison: therefore the arguments drawn from that source, were in a great measure inapplicable. In the declaration of rights which that country has established, the truth is, they have gone no farther, than to raise a barrier against the power of the crown, the power of the legislature is left altogether indefinite. Altho' I know whenever the great rights, the trial by jury, freedom of the press, or liberty of conscience, came in question in that body, the invasion of them is resisted by able advocates, yet their Magna Charta does not contain any one provision for the security of those rights, respecting which, the people of America are most alarmed. The freedom of the press and rights of conscience, those choicest privileges of the people, are unguarded in the British constitution.

But altho' the case may be widely different, and it may not be thought necessary to provide limits for the legislative power in that country, yet a different opinion prevails in the United States. The people of many states, have thought it necessary to raise barriers against power in all forms and departments of government, and I am inclined to believe, if once bills of rights are established in all the states as well as the federal constitution, we shall find that altho' some of them are rather unimportant, yet, upon the whole, they will have a salutary tendency.

It may be said, in some instances they do no more than state the perfect equality of mankind, this to be sure is an absolute truth, yet it is not absolutely necessary to be inserted at the head of a constitution.

In some instances they assert those rights which are exercised by the people in forming and establishing a plan of government. In other instances, they specify those rights which are retained when particular powers are given up to be exercised by the legislature. In other instances, they specify positive rights, which may seem to result from the nature of the compact. Trial by jury cannot be considered as a natural right, but a right resulting from the social compact which regulates the action of the community, but is as essential to secure the liberty of the people as any one of the pre-existent rights of nature. In other instances they lay down dogmatic maxims with respect to the construction of the government; declaring, that the legislative, executive, and judicial branches shall be kept separate and distinct: Perhaps the best way of securing this in practice is to provide such checks, as will prevent the encroachment of the one upon the other.

But whatever may be [the] form which the several states have adopted in making declarations in favor of particular rights, the great object in

view is to limit and qualify the powers of government, by excepting out of the grant of power those cases in which the government ought not to act, or to act only in a particular mode. They point these exceptions sometimes against the abuse of the executive power, sometimes against the legislative, and, in some cases, against the community itself; or, in other words, against the majority in favor of the minority.

In our government it is, perhaps, less necessary to guard against the abuse in the executive department than any other; because it is not the stronger branch of the system, but the weaker: It therefore must be levelled against the legislative, for it is the most powerful, and most likely to be abused, because it is under the least controul; hence, so far as a declaration of rights can tend to prevent the exercise of undue power, it cannot be doubted but such declaration is proper. But I confess that I do conceive, that in a government modified like this of the United States, the great danger lies rather in the abuse of the community than in the legislative body. The prescriptions in favor of liberty, ought to be levelled against that quarter where the greatest danger lies, namely, that which possesses the highest prerogative of power: But this is not found in either the executive or legislative departments of government, but in the body of the people, operating by the majority against the minority.

It may be thought all paper barriers against the power of the community, are too weak to be worthy of attention. I am sensible they are not so strong as to satisfy gentlemen of every description who have seen and examined thoroughly the texture of such a defence; yet, as they have a tendency to impress some degree of respect for them, to establish the public opinion in their favor, and rouse the attention of the whole community, it may be one mean to controul the majority from those acts to which they might be otherwise inclined.

It has been said by way of objection to a bill of rights, by many respectable gentlemen out of doors, and I find opposition on the same principles likely to be made by gentlemen on this floor, that they are unnecessary articles of a republican government, upon the presumption that the people have those rights in their own hands, and that is the proper place for them to rest. It would be a sufficient answer to say that this objection lies against such provisions under the state governments as well as under the general government; and there are, I believe, but few gentlemen who are inclined to push their theory so far as to say that a declaration of rights in those cases is either ineffectual or improper. It has been said that in the federal government they are unnecessary, because the powers are enumerated, and it follows that all that are not granted by the constitution are retained: that the

constitution is a bill of powers, the great residuum being the rights of the people; and therefore a bill of rights cannot be so necessary as if the residuum was thrown into the hands of the government. I admit that these arguments are not entirely without foundation; but they are not conclusive to the extent which has been supposed. It is true the powers of the general government are circumscribed, they are directed to particular objects; but even if government keeps within those limits, it has certain discretionary powers with respect to the means, which may admit of abuse to a certain extent, in the same manner as the powers of the state governments under their constitutions may to an indefinite extent; because in the constitution of the United States there is a clause granting to Congress the power to make all laws which shall be necessary and proper for carrying into execution all the powers vested in the government of the United States, or in any department or officer thereof; this enables them to fulfil every purpose for which the government was established. Now, may not laws be considered necessary and proper by Congress, for it is them who are to judge of the necessity and propriety to accomplish those special purposes which they may have in contemplation, which laws in themselves are neither necessary or proper; as well as improper laws could be enacted by the state legislatures, for fulfilling the more extended objects of those governments. I will state an instance which I think in point, and proves that this might be the case. The general government has a right to pass all laws which shall be necessary to collect its revenue; the means for enforcing the collection are within the direction of the legislature: may not general warrants be considered necessary for this purpose, as well as for some purposes which it was supposed at the framing of their constitutions the state governments had in view. If there was reason for restraining the state governments from exercising this power, there is like reason for restraining the federal government.

It may be said, because it has been said, that a bill of rights is not necessary, because the establishment of this government has not repealed those declarations of rights which are added to the several state constitutions: that those rights of the people, which had been established by the most solemn act, could not be annihilated by a subsequent act of that people, who meant, and declared at the head of the instrument, that they ordained and established a new system, for the express purpose of securing to themselves and posterity the liberties they had gained by an arduous conflict.

I admit the force of this observation, but I do not look upon it to be conclusive. In the first place, it is too uncertain ground to leave this provision upon, if a provision is at all necessary to secure rights so

important as many of those I have mentioned are conceived to be, by the public in general, as well as those in particular who opposed the adoption of this constitution. Beside some states have no bills of rights, there are others provided with very defective ones, and there are others whose bills of rights are not only defective, but absolutely improper; instead of securing some in the full extent which republican principles would require, they limit them too much to agree with the common ideas of liberty.

It has been objected also against a bill of rights, that, by enumerating particular exceptions to the grant of power, it would disparage those rights which were not placed in that enumeration, and it might follow by implication, that those rights which were not singled out, were intended to be assigned into the hands of the general government, and were consequently insecure. This is one of the most plausible arguments I have ever heard urged against the admission of a bill of rights into this system; but, I conceive, that may be guarded against. I have attempted it, as gentlemen may see by turning to the last clause of the 4th resolution.

It has been said, that it is unnecessary to load the constitution with this provision, because it was not found effectual in the constitution of the particular states. It is true, there are a few particular states in which some of the most valuable articles have not, at one time or other, been violated; but it does not follow but they may have, to a certain degree, a salutary effect against the abuse of power. If they are incorporated into the constitution, independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights; they will be an impenetrable bulwark against every assumption of power in the legislative or executive; they will be naturally led to resist every encroachment upon rights expressly stipulated for in the constitution by the declaration of rights. Beside this security, there is a great probability that such a declaration in the federal system would be enforced; because the state legislatures will jealously and closely watch the operations of this government, and be able to resist with more effect every assumption of power than any other power on earth can do; and the greatest opponents to a federal government admit the state legislatures to be sure guardians of the people's liberty. I conclude from this view of the subject, that it will be proper in itself, and highly politic, for the tranquility of the public mind, and the stability of the government, that we should offer something, in the form I have proposed, to be incorporated in the system of government, as a declaration of the rights of the people.

In the next place I wish to see that part of the constitution revised which declares, that the number of representatives shall not exceed the proportion of one for every thirty thousand persons, and allows one representative to every state which rates below that proportion. If we attend to the discussion of this subject, which has taken place in the state conventions, and even in the opinion of the friends to the constitution, an alteration here is proper. It is the sense of the people of America, that the number of representatives ought to be increased, but particularly that it should not be left in the discretion of the government to diminish them, below that proportion which certainly is in the power of the legislature as the constitution now stands; and they may, as the population of the country encreases, increase the house of representatives to a very unwieldy degree. I confess I always thought this part of the constitution defective, though not dangerous; and that it ought to be particularly attended to whenever congress should go into the consideration of amendments.

There are several lesser cases enumerated in my proposition, in which I wish also to see some alteration take place. That article which leaves it in the power of the legislature to ascertain its own emolument is one to which I allude. I do not believe this is a power which, in the ordinary course of government, is likely to be abused, perhaps of all the powers granted, it is least likely to abuse; but there is a seeming impropriety in leaving any set of men without controul to put their hand into the public coffers, to take out money to put in their pockets; there is a seeming indecorum in such power, which leads me to propose a change. We have a guide to this alteration in several of the amendments which the different conventions have proposed. I have gone therefore so far as to fix it, that no law, varying the compensation, shall operate until there is a change in the legislature; in which case it cannot be for the particular benefit of those who are concerned in determining the value of the service.

I wish also, in revising the constitution, we may throw into that section, which interdicts the abuse of certain powers in the state legislatures, some other provisions of equal if not greater importance than those already made. The words, "No state shall pass any bill of attainder, ex post facto law, &c." were wise and proper restrictions in the constitution. I think there is more danger of those powers being abused by the state governments than by the government of the United States. The same may be said of other powers which they possess, if not controuled by the general principle, that laws are unconstitutional which infringe the rights of the community. I should therefore wish to extend

this interdiction, and add, as I have stated in the 5th resolution, that no state shall violate the equal right of conscience, freedom of the press, or trial by jury in criminal cases; because it is proper that every government should be disarmed of powers which trench upon those particular rights. I know in some of the state constitutions the power of the government is controuled by such a declaration, but others are not. I cannot see any reason against obtaining even a double security on those points; and nothing can give a more sincere proof of the attachment of those who opposed this constitution to these great and important rights, than to see them join in obtaining the security I have now proposed; because it must be admitted, on all hands, that the state governments are as liable to attack these invaluable privileges as the general government is, and therefore ought to be as cautiously guarded against.

I think it will be proper, with respect to the judiciary powers, to satisfy the public mind on those points which I have mentioned. Great inconvenience has been apprehended to suitors from the distance they would be dragged to obtain justice in the supreme court of the United States, upon an appeal on an action for a small debt. To remedy this, declare, that no appeal shall be made unless the matter in controversy amounts to a particular sum: This, with the regulations respecting jury trials in criminal cases, and suits at common law, it is to be hoped will quiet and reconcile the minds of the people to that part of the constitution.

I find, from looking into the amendments proposed by the state conventions, that several are particularly anxious that it should be declared in the constitution, that the powers not therein delegated, should be reserved to the several states. Perhaps words which may define this more precisely, than the whole of the instrument now does, may be considered as superfluous. I admit they may be deemed unnecessary; but there can be no harm in making such a declaration, if gentlemen will allow that the fact is as stated, I am sure I understand it so, and do therefore propose it.

These are the points on which I wish to see a revision of the constitution take place. How far they will accord with the sense of this body, I cannot take upon me absolutely to determine; but I believe every gentleman will readily admit that nothing is in contemplation, so far as I have mentioned, that can endanger the beauty of the government in any one important feature, even in the eyes of its most sanguine admirers. I have proposed nothing that does not appear to me as proper in itself, or eligible as patronised by a respectable number of our fellow citizens; and if we can make the constitution better in the opinion of those who are opposed to it, without weakening its frame, or abridging

its usefulness, in the judgment of those who are attached to it, we act the part of wise and liberal men to make such alterations as shall produce that effect.

Having done what I conceived was my duty, in bringing before this house the subject of amendments, and also stated such as I wish for and approve, and offered the reasons which occurred to me in their support; I shall content myself for the present with moving, that a committee be appointed to consider of and report such amendments as ought to be proposed by congress to the legislatures of the states, to become, if ratified by three-fourths thereof, part of the constitution of the United States. By agreeing to this motion, the subject may be going on in the committee, while other important business is proceeding to a conclusion in the house. I should advocate greater dispatch in the business of amendments, if I was not convinced of the absolute necessity there is of pursuing the organization of the government; because I think we should obtain the confidence of our fellow citizens, in proportion as we fortify the rights of the people against the encroachments of the government.

JAMES JACKSON [Georgia]

The more I consider the subject of amendments, the more, mr. speaker, I am convinced it is improper. I revere the rights of my constituents as much as any gentleman in congress, yet, I am against inserting a declaration of rights in the constitution, and that upon some of the reasons referred to by the gentleman last up. If such an addition is not dangerous or improper, it is at least unnecessary: that is a sufficient reason for not entering into the subject at a time when there are urgent calls for our attention to important business. Let me ask gentlemen, what reason there is for the suspicions which are to be removed by this measure? Who are congress that such apprehensions shou'd be entertained of them? Do we not belong to the mass of the people? Is there a single right but, if infringed, will affect us and our connections as much as any other person? Do we not return at the expiration of two years into private life, and is not this a security against encroachment? Are we not sent here to guard those rights which might be endangered, if the government was an aristocracy or despotism? View for a moment the situation of Rhode-Island and, say whether the people's rights are more safe under state legislatures than under a government of limited powers? Their liberty is changed to licentiousness. But do gentlemen suppose bills of rights necessary to secure liberty? If they do, let them look at New-York, New-Jersey, Virginia,⁹ South Carolina, and Georgia. Those states have no bills of rights, and are the liberty of

the citizens less safe in those states, than in the other of the United States? I believe they are not.

There is a maxim in law, and it will apply to bills of rights, that when you enumerate exceptions, that the exceptions operate to the exclusion of all circumstances that are omitted; consequently, unless you except every right from the grant of power, those omitted are inferred to be resigned to the discretion of the government.

The gentleman endeavours to secure the liberty of the press; pray how is this in danger? There is no power given to congress to regulate this subject as they can commerce, or peace, or war. Has any transactions taken place to make us suppose such an amendment necessary? An honorable gentleman, a member of this house, has been attacked in the public news-papers, on account of sentiments delivered on this floor.¹⁰ Have congress taken any notice of it? Have they ordered the writer before them, even for a breach of privilege, altho' the constitution provides that a member shall not be questioned in any place for any speech or debate in the house? No, these things are suffered to public view, and held up to the inspection of the world. These are principles which will always prevail; I am not afraid, nor are other members I believe, our conduct should meet the severest scrutiny. Where then is the necessity of taking measures to secure what neither is nor can be in danger?

I hold, mr. speaker, that the present is not a proper time for considering of amendments. The States of Rhode-Island and North-Carolina are not in the Union. As to the latter, we have every presumption that they will come in. But in Rhode-Island I think the antifederal interest yet prevails. I am sorry for it, particularly on account of the firm friends of the Union, who are kept without the embrace of the confederacy by their countrymen. These persons are worthy of our patronage; and I wish they would apply to us for protection; they should have my consent to be taken into the Union upon such an application. I understand there are some important mercantile and manufacturing towns in that state, who ardently wish to live under the laws of the general government; if they were to come forward and request us to take measures for this purpose, I would give my sanction to any which are likely to bring about such an event.¹¹

But to return to my argument. It being the case that those states are not yet come into the Union, when they join us we shall have another list of amendments to consider, and another bill of rights to frame. Now, in my judgment, it is better to make but one work of it whenever we set about the business.

But in what a situation shall we be with respect to those foreign powers with whom we desire to be in treaty? They look upon us as a nation emerging into figure and importance: But what will be their opinion if they see us unable to retain the national advantages we have just gained? they will smile at our infantine efforts to obtain consequence, and treat us with the contempt we have hitherto borne by reason of the imbecility of our government. Can we expect to enter into a commercial competition with any of them, while our system is incomplete? and how long it will remain in such a situation, if we enter upon amendments, God only knows. Our instability will make us objects of scorn. We are not content with two revolutions in less than 14 years; we must enter upon a third, without necessity or propriety. Our faith will be like the punica fides of Carthage;¹² and we shall have none that will repose confidence in us. Why will gentlemen press us to propose amendments, while we are without experience? Can they assure themselves that the amendments, as they call them, will not want amendments as soon as they are adopted? I will not tax gentlemen with a desire of amusing the people; I believe they venerate their country too much for this; but what more can amendments lead to? That part of the constitution which is proposed to be altered, may be the most valuable part of the whole; and perhaps those who now clamour for alterations may ere long discover that they have marred a good government, and rendered their own liberties insecure. I again repeat it, this is not the time for bringing forward amendments; and, notwithstanding the honorable gentleman's ingenious arguments on that point, I am now more strongly persuaded it is wrong.

If we actually find the constitution bad upon experience, or the rights and privileges of the people in danger, I here pledge myself, to step forward among the first friends of liberty to prevent the evil; and if nothing else will avail, I will draw my sword in the defence of freedom, and cheerfully immolate at that shrine my property and my life. But how are we now proceeding? Why on nothing more than theoretical speculation, pursuing a mere ignis fatuus,¹³ which may lead us into serious embarrassments. The imperfections of the government are now unknown; let it have a fair trial, and I will be bound they shew themselves; then we can tell where to apply the remedy, so as to secure the great object we are aiming at.

There are, Mr. Speaker, a number of important bills on the table which require dispatch, but I am afraid if we enter on this business, we shall not be able to attend to them for a long time. Look, sir, over the long list of amendments proposed by some of the adopting states, and

say, when the house could get thro' the discussion; and I believe, sir, every one of those amendments will come before us. Gentlemen may feel themselves called by duty or inclination to propose them; how are we then to extricate ourselves from this labyrinth of business? certainly we shall lose much of our valuable time, without any advantage whatsoever. I hope therefore the gentleman will press us no further, he has done his duty, and acquitted himself of the obligation under which he lay. He may now accede to what I take to be the sense of the house, and let the business of amendments lay over until next spring, that will be soon enough to take it up to any good purpose.

ELBRIDGE GERRY [Massachusetts]

I do not rise to go into the merits or demerits of the subject of amendments; nor shall I make any other observations on the motion for going into a committee of the whole, on the state of the union, which is now withdrawn, than merely to say, that, referring the subject to that committee, is treating it with the dignity its importance requires. But I consider it improper to take up this business at this time, when our attention is occupied by other important objects: We should dispatch the subjects now on the table, and let this lie over until a period of more leisure for discussion and attention. The gentleman from Virginia says it is necessary to go into a consideration of this subject, in order to satisfy the people. For my part I cannot be of his opinion. The people know we are employed in the organization of the government, and cannot expect that we should forego this business for any other. But I would not have it understood, that I am against entering upon amendments when the proper time arrives. I shall be glad to set about it as soon as possible, but I would not stay the operations of the government on this account. I think, with the gentleman from Delaware (Mr. Vining), that the great wheels of the political machine should first be set in motion; and with the gentleman from Georgia (Mr. Jackson), that the vessel ought to be got under way, lest she lays by the wharf till she beat off her rudder, and runs herself a wreck on shore.

I say, sir, I wish as early a day as possible may be assigned for taking up this business, in order to prevent the necessity which the states may think themselves under of calling a new convention. For I am not, sir, one of those blind admirers of this system, who think it all perfection; nor am I so blind as not to see its beauties. The truth is, it partakes of humanity; in it is blended virtue and vice, errors and excellence. But I think, if it is referred to a new convention, we run the risk of losing some of its best properties; this is a case I never wish to see. Whatever might have been my sentiments of the ratification of the constitution

without amendments, my sense now is, that the salvation of America depends upon the establishment of this government, whether amended or not. If the constitution which is now ratified should not be supported, I despair of ever having a government of these United States.

I wish the subject to be considered early for another reason: There are two states not in the union; it would be a very desirable circumstance to gain them. I should therefore be in favor of such amendments as might tend to invite them and gain their confidence; good policy will dictate to us to expedite that event. Gentlemen say, that we shall not obtain the consent of two-thirds of both houses to amendments. Are gentlemen willing then to throw Rhode-Island and North Carolina into the situation of foreign nations? They have told you, that they cannot accede to the union unless certain amendments are made to the constitution; if you deny a compliance with their request in this particular, you refuse an accommodation to bring about that desirable event, and leave them detached from the union.

I have another reason for going early into this business: It is necessary to establish an energetic government. My idea of such a government is, that due deliberation be had in making laws, and efficiency in the execution. I hope in this country the latter may obtain without the dread of despotism: I would wish to see the execution of good laws irresistible.

But from the view which we have already had of the disposition of the government, we seem really to be afraid to administer the powers with which we are invested lest we give offence. We appear afraid to exercise the constitutional powers of the government, which the welfare of the state requires, lest a jealousy of our powers be the consequence. What is the reason of this timidity? why, because we see a great body of our constituents opposed to the constitution as it now stands, who are apprehensive of the enormous powers of governments. But if this business is taken up, and it is thought proper to make amendments, it will remove this difficulty. Let us deal fairly and candidly with our constituents, and give the subject a full discussion; after that I have no doubt but the decision will be such as, upon examination, we shall discover to be right. If it shall then appear proper and wise to reject the amendments, I dare to say the reasons for so doing, will bring conviction to the people out of doors, as well as it will to the members of this house; and they will acquiesce in the decision, though they may regret the disappointment of their fondest hopes for the security of the liberties of themselves and their posterity. Thus, and thus only, the government will have its due energy, and accomplish the end for which it was instituted.

I am against referring the subject to a select committee; because I conceive it would be disrespectful to those states which have proposed amendments. The conventions of the states consisted of the most wise and virtuous men of the community; they have ratified this constitution, in full confidence that their objections would at least be considered; and shall we, sir, preclude them by the appointment of a special committee, to consider of a few propositions brought forward by an individual gentleman. Is it in contemplation that the committee should have the subject at large before them, or that they should report upon the particular amendments just mentioned, as they think proper? and are we to be precluded from the consideration of any other amendments but those the committee may report? A select committee must be considered improper, because it is putting their judgments against that of the conventions who have proposed amendments; but if the committee are to consider the matter at large, they will be liable to this objection, that their report will be only waste of time: For if they do not bring forward the whole of the amendments recommended, individual members will consider themselves bound to bring them forward for the decision of the house. I would therefore submit, if gentlemen are determined to proceed in the business at this time, whether it is not better that it should go, in the first instance, to a committee of the whole, as first proposed by the gentleman from Virginia.

Some gentlemen consider it necessary to do this to satisfy our constituents: I think referring the business to a special committee will be attempting to amuse them with trifles. Our fellow citizens are possessed of too much discernment not to be able to discover the intention of congress by such procedure. It will be the duty of their representatives to tell them, if they were not able to discover it of themselves; they require the subject to be fairly considered, and if it be found to be improper to comply with their reasonable expectations tell them so. I hope there is no analogy between federal and punic faith; but unless congress shall candidly consider the amendments which have been proposed in confidence by the state conventions, federal faith will not be considered very different from the *punica fides* of Carthage.¹⁴ The ratification of the constitution in several states would never have taken place, had they not been assured, that the objections would have been duly attended to by congress: And I believe many members of these conventions would never have voted for it, if they had not been persuaded that congress would notice them with that candor and attention which their importance requires. I will say nothing respecting the amendments themselves; they ought to stand or fall on their own mer-

its. If any of them are eligible they will be adopted, if not, they will be rejected.

SAMUEL LIVERMORE [New Hampshire]

Was against this motion; not that he was against amendments at a proper time; it is enjoined on him to act a rational part in procuring certain amendments, and he meant to do so; but he could not say what amendments were requisite, until the government was organized. He supposed the judiciary law would contain certain regulations that would remove the anxiety of the people respecting such amendments as related thereto; because he thought much of the minutiae respecting suits between citizens of different states, &c. might be provided by law. He could not agree to make jury trials necessary on every occasion; they were not practiced even at this time, and there were some cases in which a cause could be better decided without a jury than with one.

In addition to the judiciary business, there is that which relates to the revenue. Gentlemen had let one opportunity go through their hands of getting a considerable supply from the impost on the spring importation. He reminded them of this; and would tell them now was the time to finish that business; for if they did not sow in seed time, they would be beggars in harvest. He was well satisfied in his own mind, that the people of America did not look for amendments at present; they never could imagine it to be the first work of Congress.

He wished the concurrence of the senate upon entering on this business, because if they opposed the measure, all the house did would be a mere waste of time; and there was some little difficulty on this point, because it required the consent of two-thirds of them as well as the house of representatives to agree to what was proper on this occasion. He said moreover it would be better to refer the subject generally, if referred to them at all, than to take up the propositions of individual members.

ROGER SHERMAN [Connecticut]

I do not suppose the constitution to be perfect, nor do I imagine if congress and all the legislatures on the continent were to revise it, that their united labours would make it perfect. I do not expect any perfection on this side [of] the grave in the works of man; but my opinion is, that we are not at present in circumstances to make it better. It is a wonder that there has been such unanimity in adopting it, considering the ordeal it had to undergo; and the unanimity which prevailed at its formation, is equally astonishing; amidst all the members from the twelve states present at the federal convention, there were only three who did

not sign the instrument to attest their opinion of its goodness. Of the eleven states who have received it, the majority have ratified it without proposing a single amendment; this circumstance leads me to suppose that we shall not be able to propose any alterations that are likely to be adopted by nine states; and gentlemen know before the alterations take effect, they must be agreed to by the legislatures of three-fourths of the states in the union. Those states that have not recommended alterations will hardly adopt them, unless it is clear that they tend to make the constitution better; now how this can be made out to their satisfaction I am yet to learn; they know of no defect from experience. It seems to be the opinion of gentlemen generally, that this is not the time for entering upon the discussion of amendments: our only question therefore is, how to get rid of the subject; now for my own part I would prefer to have it referred to a committee of the whole, rather than a special committee, and therefore shall not agree to the motion now before the house.

Mr. Gerry moved, that the business lie over until the 1st. day of July next, and that it be the order for that day.

THOMAS SUMTER [South Carolina]

I consider the subject of amendments of such great importance to the Union, that I should be glad to see it undertaken in any manner. I am not, mr. speaker, disposed to sacrifice substance to form; therefore, whether the business shall originate in a committee of the whole, or in the house, is a matter of indifference to me, so that it be put in train. Although I am seriously inclined to give this subject a full discussion, yet I do not wish it to be fully entered into at present, but am willing it should be postponed to a future day, when we shall have more leisure. With respect to referring to a select committee, I am rather against it; because I consider it as treating the applications of the state conventions rather slightly; and I presume it is the intention of the house to take those applications into consideration as well as any other; if it is not, I think it will give fresh cause for jealousy; it will rouse the alarm which is now suspended, and the people will become clamorous for amendments; they will decline any further application to Congress, and resort to the other alternative pointed out in the constitution. I hope, therefore, this house, when they do go into the business, will receive those propositions generally. This I apprehend will tend to tranquilize the public mind, and promote that harmony which ought to be kept up between those in the exercise of the powers of government, and those who have clothed them with the authority, or in other words between Congress and the people. Without a harmony and confidence

subsists between them, the measures of government will prove abortive, and we shall have still to lament that imbecility and weakness which has long marked our public councils.

JOHN VINING [Delaware]

Found himself in a delicate situation respecting the subject of amendments. He came from a small state, and therefore his sentiments would not be considered of so much weight as the sentiments of those gentlemen who spoke the sense of much larger states; besides his constituents had prejudged the question, by an unanimous adoption of the constitution, without suggesting any amendments thereto. His sense accorded with the declared sense of the state of Delaware, and he was doubly bound to object to amendments, which were either improper or unnecessary. But he had good reasons for opposing the consideration of even proper alterations at this time. He would ask the gentleman who pressed them, whether he would be responsible for the risk the government would run of being injured by an *inter regnum*?¹⁵ Proposing amendments at this time, is suspending the operations of government, and may be productive of its ruin.

He would not follow the gentleman in his arguments, tho' he supposed them all answerable, because he would not take up the time of the house; he contented himself with saying that a bill of rights was unnecessary in a government deriving all its powers from the people; and the constitution enforced the principle in the strongest manner by the practical declaration prefixed to that instrument; he alluded to the words, "We the people do ordain and establish."

There were many things mentioned by some of the state conventions which he would never agree to, on any conditions whatever; they changed the principles of the government, and were therefore obnoxious to its friends—the honorable gentleman from Virginia, had not touched upon any of them; he was glad of it, because he could by no means bear the idea of an alteration respecting them; he referred to the mode of obtaining direct taxes, judging of elections, &c.

He found he was not speaking to the question; he would therefore return to it and declare he was against committing it to a select committee; if it was to be committed at all, he preferred a committee of the whole, but hoped the subject would be postponed.

JAMES MADISON [Virginia]

Found himself unfortunate in not satisfying gentlemen with respect to the mode of introducing the business; he thought from the dignity and peculiarity of the subject that it ought to be referred to a committee of the whole; he had accordingly made that motion first, but

finding himself not likely to succeed in that way he had changed his ground. Fearing again to be discomfited, he would change his mode, and move the propositions he had stated before, and the house might do what they thought proper with them. He accordingly moved the propositions by way of resolutions to be adopted by the house.

Mr. [SAMUEL] LIVERMORE [New Hampshire] objected to these propositions, because they did not take up the amendments of the several states.

Mr. [JOHN] PAGE [Virginia] was much obliged to his colleague for bringing the subject forward in the manner he had done. He conceived it to be just and fair. What was to be done when the house would not refer it to a committee of any sort, but bring the question at once before them? He hoped it would be the means of bringing about a decision.

Mr. [JOHN] LAURANCE [New York] moved to refer Mr. Madison's motion to the committee of the whole on the state of the union.

Mr. [RICHARD BLAND] LEE [Virginia] thought it ought to be taken up in that committee; and hoped his colleague would bring the propositions before the committee, when on the state of the union, as he had originally intended.

Mr. [ELIAS] BOUDINOT [New Jersey] wished the appointment of a select committee; but afterward withdrew his motion.

At length Mr. Laurance's motion was agreed to, and Mr. Madison's propositions were ordered to be referred to a committee of the whole.

1. *Congressional Register*, I, 414–47. The *Gazette of the United States*, 10 June, printed a lengthy account of the House debates that was reprinted in thirty-two newspapers by 20 July: N.H. (3), Mass. (8), R.I. (3), Conn. (4), N.Y. (2), N.J. (2), Pa. (4), Md. (2), Va. (2), N.C. (1), Ga. (1), and in the December issue of the *Philadelphia American Museum*. The *New York Daily Advertiser*, 9 June, printed a shorter account of the debates that was reprinted twelve times by 22 August: R.I. (1), N.Y. (1), Pa. (5), Md. (2), Va. (2), Ga. (1). The *New York Packet*, 9 June, printed a three-paragraph excerpt of the debates that was reprinted four times by 26 June: Mass. (1), Conn. (1), N.Y. (2); while the *New York Daily Gazette*, 9 June, printed a two-paragraph excerpt that was reprinted four times by 13 June: Conn. (1), N.Y. (1), Pa. (2). The *Massachusetts Centinel*, 17 June, reported that "A motion for adopting Amendments has been made by MR. MADISON. They comprehend a bill of rights, and many explanations. It is impossible to take them up—but they will be acted upon as soon as the House can find time." None of these newspapers printed the text of Madison's amendments. They were printed separately by the *New York Daily Advertiser*, 12 June, and both the *Gazette of the United States* and the *New York Daily Gazette*, 13 June. See note 8 (below) for the reprintings of Madison's amendments.

2. Two-thirds was the constitutional majority for each house of Congress to approve amendments to the Constitution.

3. The Georgia Convention unanimously voted to ratify the Constitution on 31 December 1787.

4. The Georgia constitutional convention adopted a new state constitution on 6 May 1789.

5. On 4 May Madison indicated that he would propose amendments. The House agreed to postpone consideration of amendments until 25 May. On that day, Madison agreed to postpone consideration of amendments until 8 June.

6. According to Connecticut Governor Samuel Huntington, the Connecticut ratifying convention “would have preferred some Alterations & Amendments rather than the present form, if I may judge from the sentiments that were thrown out in discussing the subject; but deemed it too dangerous to hazard Delays under a tottering Constitution, until every difficulty should be removed so as to obtain a Constitution which would meet the entire approbation of all the States in the Union, which it is not probable would ever be the Case” (to North Carolina Governor Samuel Johnston, 23 September 1788, Misc. Collection, HM22570, Huntington Library, Mfm:N.C. 111).

7. The legislatures of Virginia and New York requested that Congress call a general convention of the states to consider amendments to the Constitution.

8. Madison’s amendments were also printed separately in forty-four newspapers by 24 August: Vt. (2), N.H. (1), Mass. (7), R.I. (3), Conn. (4), N.Y. (9), N.J. (2), Pa. (9), Md. (2), Va. (2), N.C. (2), Ga. (2), originating in three New York city newspapers. (See note 1 above.) The New York *Advertiser’s* printing was prefaced: “A Correspondent has favored us with the following copy of the Resolution proposed by the Hon. Mr. MADISON, in the House of Representatives, on Monday last, when the subject of AMENDMENTS was under consideration:—”

9. Assertions that Virginia did not have a bill of rights were based on Francis Bailey’s failure to include it in his *Constitutions of the Several Independent States of America*, printed at Philadelphia in 1781 (Evans 17390) by order of Congress and reprinted at Boston (1785) and New York (1786). Eleven states had constitutions whose text provided certain rights. Seven states—New Hampshire, Massachusetts, Pennsylvania, Delaware, Maryland, Virginia, and North Carolina—also had formal bills or declarations of rights. New York, New Jersey, South Carolina, and Georgia did not. Connecticut and Rhode Island continued to operate under their seventeenth-century charters. The legislature of Connecticut regularly confirmed a declaration of rights passed in the 1630s. The New York legislature adopted a law protecting judicial rights in January 1787.

10. Jackson referred to a letter that appeared in the New York *Daily Advertiser* on 5 June in which William Strachan criticized an unnamed member of the House of Representatives.

11. Newport, Providence, and a couple other seaport towns from Rhode Island raised the issue of secession to join the Union. See RCS:R.I.

12. Bad faith, even treachery: characteristics attributed to Carthage by Rome.

13. A light that sometimes appears in the night over marshy ground and is often attributable to the combustion of gas from decomposed organic matter—thus a deceptive hope.

14. See note. 12 (above).

15. A period of discontinuity in a government, organization, or social order.

House Debates, Tuesday, 21 July 1789¹

JAMES MADISON [Virginia]

Begged the house to indulge him in the further consideration of amendments to the constitution, and as there appeared, in some de-

gree, a moment of leisure, he would move to go into a committee of the whole on the subject, conformably to the order of the 8th of last month.

FISHER AMES [Massachusetts]

Hoped that the house would be induced, on mature reflection, to rescind their vote of going into committee on the business, and refer it to a select committee: It would certainly tend to facilitate the business. If they had the subject at large before a committee of the whole, he could not see where the business was likely to end. The amendments proposed were so various, that their discussion must inevitably occupy many days, and that at a time when they can be illy spared; whereas a select committee could go through and cull out those of the most material kind, without interrupting the principal business of the house. He therefore moved, that the committee of the whole be discharged, and the subject referred to a select committee.

THEODORE SEDGWICK [Massachusetts]

Opposed the motion, for the reasons given by his colleague, observing that the members from the several states proposing amendments, would no doubt drag the house through the consideration of every one, whatever their fate might be after they were discussed, now gentlemen had only to reflect on this, and conceive the length of time the business would take up, if managed in this way.

ALEXANDER WHITE [Virginia]

Thought no time would be saved by appointing a select committee. Every member would like to be satisfied with the reasons upon which the amendments offered by the select committee are grounded, consequently the train of argument which gentlemen have in contemplation to avoid, must be brought forward.

He did not presume to say the constitution was perfect, but it was such as had met with the approbation of wise and good men in the different states. Some of the proposed amendments were also of high value, but he did not expect they would be supported by two thirds of both houses, without undergoing a thorough investigation. He did not like to refer any business to a select committee, until the sense of the house had been expressed upon it, because it rather tended to retard than dispatch it, witness the collection bill which had cost them much time, but after all had to be deserted.

ROGER SHERMAN [Connecticut]

The provision for amendments made in the fifth article of the constitution, was intended to facilitate the adoption of those which expe-

rience should point out to be necessary.—This constitution has been adopted by eleven states, a majority of those eleven have received it without expressing a wish for amendments; now, is it probable that three fourths of the eleven states will agree to amendments offered on mere speculative points, when the constitution has had no kind of trial whatever? It is hardly to be expected that they will: Consequently we shall lose our labour, and had better decline having any thing farther to do with it for the present.

But if the house are to go into a consideration, it had better be done in such a way as not to interfere much with the organization of the government.

JOHN PAGE [Virginia]

Hoped the business would proceed as heretofore directed: He thought it would be very agreeable to the majority of the union; he knew it would to his constituents, to find that the government meant to give every security to the rights and liberties of the people, and to examine carefully into the grounds of the apprehensions expressed by several of the state conventions; he thought they would be satisfied with the amendments brought forward by his colleague, when the subject was last before the house.

GEORGE PARTRIDGE [Massachusetts]

Mr. Partridge knew the subject must be taken up in some way or another, and preferred, for the sake of expedition, doing it by a select committee.

JAMES JACKSON [Georgia]

Was sorry to see the house were to be troubled any further on the subject—he looked upon it as a mere waste of time; but as he always chose the least of two evils, he acquiesced in the motion for referring it to a special committee.

ELBRIDGE GERRY [Massachusetts]

Asked whether the house had cognizance of the amendments proposed by the state conventions, if they had not, he would make a motion to bring them forward.

JOHN PAGE [Virginia]

Mr. Page replied that such motion would be out of order, until the present question was determined.

A desultory conversation ensued, and it was questioned whether the subject generally was to be before the committee of the whole, or those specific propositions only which had already been introduced.

ELBRIDGE GERRY [Massachusetts]

Said that it was a matter of indifference how this question was understood, because no gentleman could pretend to deny another the privilege of bringing forward propositions conformable to his sentiments. If gentlemen, then, might bring forward resolutions to be added, or motions of amendment, there would be no time saved even by referring the subject to a special committee: But such procedure might tend to prejudice the house against an amendment neglected by the committee, and thereby induce them not to shew that attention to the state which proposed it that would be delicate and proper.

He wished gentlemen to consider the situation of the states—seven out of thirteen had thought the constitution very defective, yet five of them have adopted it with a perfect reliance on congress for its improvement: Now, what will these states feel if the subject is discussed in a select committee, and their recommendations totally neglected. The indelicacy of treating the application of five states in a manner different from other important subjects, will give no small occasion for disgust, which is a circumstance that this government ought carefully to avoid. If, then, the house could gain nothing by this manner of proceeding, he hoped they would not hesitate to adhere to their former vote for going into a committee of the whole. That they would gain nothing was pretty certain, for gentlemen must necessarily come forward with their amendments to the report when it was brought in. The members from Massachusetts were particularly instructed to press the amendments recommended by the convention of that state at all times, until they had been maturely considered by congress; the same duties were made incumbent on the members from some other states; consequently, any attempt to smother the business, or prevent a full investigation, must be nugatory, while the house paid a proper deference to their own rules and orders. He did not contend for going into a committee of the whole at the present moment; he would prefer a time of greater leisure than the present, from the business of organizing the government.

FISHER AMES [Massachusetts]

Answered the house, that he was no enemy to the consideration of amendment; but he had moved to rescind their former vote, in order to save time, which he was confident would be the consequence of referring it to a select committee.

He was sorry to have an intention avowed by his colleague, of considering every part of the frame of this constitution:—It was the same as forming themselves into a convention of the United States; he did

not stand for words, the thing would be the same in fact. He could not but express a degree of anxiety at seeing the system of government encounter another ordeal when it ought to be extending itself to furnish security to others. He apprehended, if the zeal of some gentlemen broke out on this occasion, that there would be no limits to the time necessary to discuss the subject; he was certain the session would not be long enough; perhaps they might be bounded by the period of their appointment, but he questioned it.

When gentlemen suppose themselves called upon to vent their ardor in some favorite pursuit, in securing to themselves and their posterity, the inestimable rights and liberties they have but just snatched from the hand of despotism; they are apt to carry their exertions to an extreme; but he hoped the subject itself would be limited, not that he objected to the consideration of the amendments proposed, indeed he should move himself for the consideration, by the committee, of those recommended by Massachusetts, if his colleagues omitted to do it; but he hoped gentlemen would not think of bringing in new amendments, such as were not recommended, but went to tear the frame of government into pieces.

He considered a select committee much better calculated to consider and arrange a complex business, than a committee of the whole; he thought they were like the senses to the soul, and on an occasion like the present, could be made equally useful.

If he recollected rightly the decision made by the house on the 8th of June, it was that certain specific amendments be referred to the committee of the whole; not that the subject generally be referred, and that amendments be made in the committee, that were never contemplated before; this public discussion, would be like a dissection of the constitution, it would be defacing its symmetry, laying bare its sinews and tendons, ripping up the whole form and tearing out its vitals; but is it presumable that such conduct would be attended with success, two thirds of both houses must agree in all these operations, before they can have effect. His opposition to going into the committee of the whole, did not arise from any fear that the constitution would suffer by a fair discussion in this, or any other house; but while such business was going on, the government was laid prostrate, and every artery ceased to beat. The unfair advantages that might be taken in such a situation, were easier apprehended than resisted: Wherefore, he wished to avoid the danger, by a more prudent line of conduct.

THOMAS TUDOR TUCKER [South Carolina]

Would not say whether the discussion alluded to by the gentleman last up, would do good or harm, but he was certain it ought to take

place no where but in a committee of the whole; the subject is of too much importance for a select committee. Now, suppose such a committee to be appointed, and that the amendments proposed by the several states, together with those brought forward by the gentleman from Virginia, are referred to them; after some consideration they report—but not one of the amendments proposed by either state—what is the inference? They have considered them, and as they were better capable than the house of considering them, the house ought to reject every proposition coming from the state conventions. Will this give satisfaction to the states who have required amendments? Very far from it. They will expect that their propositions shall be fully brought before the house, and regularly and fully considered; if indeed then they are rejected, it may be some satisfaction to them, to know that their applications have been treated with respect.

What I have said with respect to the propositions of the several states, may apply in some degree to the propositions brought forward by the gentleman (mr. Madison) from Virginia; the select committee may single out one or two, and reject the remainder, notwithstanding the vote of the house for considering them. The gentleman would have a right to complain, and every state would be justly disgusted.

Will it tend to reconcile to the government that great body of the people who are dissatisfied, who think themselves and all they hold most dear, unsafe under it? Without certain amendments are made, will it answer any one good purpose to slurr over this business, and reject the propositions without giving them a fair chance of a full discussion? I think not, mr. speaker. Both the senate and this house ought to treat the present subject with delicacy and impartiality.

The select committee will have it in their power so to keep this business back, that it may never again come before the house; this is an imprudent step for us to take—not that I would insinuate it is an event likely to take place, or which any gentleman has in contemplation. I give every gentleman credit for his declaration, and believe the honorable mover means to save time by this arrangement; but do not let us differ on this point; I would rather the business should lay over for a month, nay, for a whole session, than have it put into other hands, and passed over without investigation.

ELBRIDGE GERRY [Massachusetts]

Enquired of his colleague how it was possible that the house could be a federal convention without the senate, and when two thirds of both houses are to agree to the amendments? He would also be glad to find out how a committee were the same to the house as the senses

to the soul? What, said he, can we neither see, hear, smell nor feel, without we employ a committee for the purpose? My colleague further tells us, that if we proceed in this way, we shall lay bare the sinews and tendons of the constitution; that we shall butcher it, and put it to death. Now what does this argument tend to prove? Why, sir, to my mind, nothing more nor less than this, that we ought to adopt the report of the committee, whatever that report may be, for we are to judge by the knowledge derived through our senses, and not to proceed on to commit murder. If these are arguments to induce the house to refer the subject to a select committee, they are arguments to engage to go further, and give into the hands of select committees the whole legislative power:—But what is that was said respecting a public discussion? Are gentlemen afraid to meet the public ear on this topic? Do they wish to shut the gallery doors? Perhaps nothing would be attended with more dangerous consequences.—No, sir, let us not be afraid of full and public investigation; let our means, like our conclusions, be justified; let our constituents see, hear, and judge for themselves.

The question on discharging the committee of the whole on the state of the union from proceeding on the subject of amendments, as referred to them, was put, and carried in the affirmative; the house divided, 34 for it, and 15 against it.

It was then ordered, that mr. Madison's motion, stating certain specific amendments, proper to be proposed by congress to the legislatures of the states, to become, if ratified by three-fourths thereof, part of the constitution of the United States, together with the amendments to the said constitution as proposed by the several states, be referred to a committee, to consist of a member from each state, with instruction to take the subject of amendments to the constitution of the United States, generally into their consideration, and to report thereupon to the house.

The committee appointed, were messrs. Vining, Madison, Baldwin, Sherman, Burke, Gilman, Clymer, Benson, Goodhue, Boudinot and Gale.² Then the house adjourned.

1. *Congressional Register*, II, 105–11. A shortened report of the proceedings that included only the first speeches by Madison and Ames, and the appointment of the committee with its members was printed in the *Gazette of the United States*, 22 July, and reprinted in whole or in part twenty-nine times by 17 October: N.H. (1), Mass. (7), R.I. (1), Conn. (3), N.Y. (4), N.J. (1), Pa. (7), Md. (2), Va. (4), Ga. (2). Information in the last paragraph of the *Gazette of the United States* did not appear in the *Congressional Register*. “Another motion was made, that the committee be instructed to report as expeditiously as possible—this was superceded by a motion for adjournment—which accordingly took place.” Two other short accounts of the proceedings were printed in the *New York Daily Advertiser* and *New York Daily Gazette* on 22 July. The *Advertiser* account was reprinted in the *Connecticut Gazette*,

31 July, the Poughkeepsie, N.Y., *Country Journal*, 4 August, and the Georgia *Augusta Chronicle*, 17 October. The *Daily Gazette* account was reprinted in the New York *Weekly Museum*, 25 July.

2. The *Providence Gazette*, 25 July, listed the committee members and stated that “The Motion for the Committee was carried by a large Majority.” The *Virginia Centinel*, 5 August, printed an “Extract of a letter from a member of Congress, to a Gentleman in this neighbourhood, dated July 22, 1789”: “Yesterday we committed Mr. Madison’s propositions on the subject of amendments to the constitution, together with the propositions from the several States, to a Committee, consisting of a member from each State, to report thereon. There is little doubt that amendments, satisfactory to the People, will be recommended by our House. What will be their fate in the Senate is doubtful.”

Newspaper Reports of House Proceedings, Tuesday, 28 July 1789¹

MR. VINING, of the committee on amendments to the Constitution, brought in a report, which was read, and laid on the table.²

Upon motion of Mr. GERRY, it was voted that 100 copies be struck off for the accommodation of the members.

1. Printed: *Gazette of the United States*, 29 July 1789. Reprinted in nineteen newspapers by 15 August, and in the December issue of the *Philadelphia American Museum*: Mass. (5), R.I. (2), Conn. (1), N.Y. (3), N.J. (1), Pa. (5), Md. (1), Va. (1). The New York *Daily Advertiser*, 29 July, printed only one sentence: “Mr. VINING from the committee of eleven, to whom was referred the subjects of amendments to the constitution, reported certain amendments which were laid on the table.” This sentence was reprinted three times in New York and once in Connecticut. The *Congressional Register’s* account was very similar to the *Advertiser’s* account.

2. For the committee’s report, see immediately below.

House Committee of Eleven Report, Tuesday, 28 July 1789¹

CONGRESS OF THE UNITED STATES.

In the HOUSE of REPRESENTATIVES,

Tuesday, the 28th of July, 1789.

MR. VINING, *from the Committee of eleven, to whom it was referred to take the subject of AMENDMENTS to the CONSTITUTION of the UNITED STATES, generally into their consideration, and to report thereupon, made a report, which was read, and is as followeth:*

In the introductory paragraph before the words, “*We the people,*” add, “Government being intended for the benefit of the people, and the rightful establishment thereof being derived from their authority alone.”

ART. 1, SEC. 2, PAR. 3—Strike out all between the words, “*direct*” and “*and until such,*” and instead thereof insert, “After the first enumeration there shall be one representative for every thirty thousand until the number shall amount to one hundred; after which the proportion shall be so regulated by Congress that the number of Representatives shall never be less than one hundred, nor more than one hun-

dred and seventy-five, but each State shall always have at least one Representative.”

ART. 1, SEC. 6—Between the words “*United States,*” and “*shall in all cases,*” strike out “*they,*” and insert, “But no law varying the compensation shall take effect until an election of Representatives shall have intervened. The members.”

ART. 1, SEC. 9—Between PAR. 2 and 3 insert, “No religion shall be established by law, nor shall the equal rights of conscience be infringed.”

“The freedom of speech, and of the press, and the right of the people peaceably to assemble and consult for their common good, and to apply to the government for redress of grievances, shall not be infringed.”

“A well regulated militia, composed of the body of the people, being the best security of a free State, the right of the people to keep and bear arms shall not be infringed, but no person religiously scrupulous shall be compelled to bear arms.”

“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.”

“No person shall be subject, except in case of impeachment, to more than one trial or one punishment for the same offence, nor shall be compelled 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.”

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

“The right of the people to be secure in their person, houses, papers and effects, shall not be violated by warrants issuing, without probable cause supported by oath or affirmation, and not particularly describing the places to be searched, and the persons or things to be seized.”

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

ART. 1, SEC. 10, between the 1st and 2d PAR. insert, “No State shall infringe the equal rights of conscience, nor the freedom of speech, or of the press, nor of the right of trial by jury in criminal cases.”

ART. 3, SEC. 2, add to the 2d PAR. “But no appeal to such court shall be allowed, where the value in controversy shall not amount to one thousand dollars; nor shall any fact, triable by a Jury according to the course of the common law, be otherwise re-examinable than according to the rules of common law.”

ART. 3, SEC. 2—Strike out the whole of the 3d paragraph, and insert—“In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, 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 defence.”

“The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger) shall be by an impartial jury of freeholders of the vicinage, with the requisite of unanimity for conviction, the right of challenge and other accustomed requisites; and no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment by a Grand Jury; but if a crime be committed in a place in the possession of an enemy, or in which an insurrection may prevail, the indictment and trial may by law be authorized in some other place within the same State; and if it be committed in a place not within a State, the indictment and trial may be at such place or places as the law may have directed.”

“In suits at common law the right of trial by jury shall be preserved.”

“Immediately after ART. 6, the following to be inserted as ART. 7.”

“The powers delegated by this Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or the Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.”

“The powers not delegated by this Constitution, nor prohibited by it to the States, are reserved to the States respectively.”

ART. 7 to be made ART. 8.

Extract from the Journal,

JOHN BECKLEY, CLERK.

1. Printed as a two-page broadside in New York by Thomas Greenleaf (Evans 22200). The entire report was also printed in the New York *Daily Advertiser*, 29 July, and reprinted in forty-seven newspapers by 14 September: N.H. (2), Mass. (9), R.I. (4), Conn. (4), N.Y. (10), N.J. (2), Pa. (8), Md. (2), Va. (4), N.C. (2).

House Proceedings, Monday, 3 August 1789¹

The report of the committee on amendments, was, on motion of mr. Madison, made the order of the day for Wednesday se’nnight.

1. *Congressional Register*, II, 124. An identical report was printed in the *Gazette of the United States*, 5 August, and reprinted fourteen times by 31 August: Mass. (3), R.I. (2), Conn. (2), N.Y. (1), N.J. (1), Pa. (3), Md. (1), Va. (1). The New York *Daily Advertiser*, 4 August, indicated that the report “was made the order of the day for Thursday the 12th

instant.” This account was reprinted six times by 20 August: Conn. (1), N.Y. (1), Pa. (2), Md. (1), Va. (1).

Report of Joint Committee of Congress, 11 August 1789 (excerpts)¹

Mr. WADSWORTH, of the joint committee appointed to consider and report when it will be convenient for Congress to adjourn—also to report what business, now before Congress, must be necessarily attended to previous to a recess, bro’t in a report to this effect:—That it will be proper and convenient for Congress to adjourn on the twelfth of September next—and that postponing other business, till the next session, it will be necessary to attend to the following, previous to the adjournment, viz.

THE BILLS . . .

And on the subject of Amendments. . . .

This report being read, the House adjourned.

1. Printed: *Gazette of the United States*, 12 August, and, reprinted in fifteen other newspapers by 3 September: N.H. (1), R.I. (1), N.Y. (5), Pa. (5), Va. (1), N.C. (2). Another version in the *New York Daily Advertiser*, 13 August, was reprinted in the *Philadelphia Federal Gazette*, 17 August, and the *Newport Mercury*, 26 August. The *Congressional Register*, in a one-sentence statement, indicated only that the report was “ordered to lie on [the] table.”

House Debates, Thursday, 13 August 1789¹

RICHARD BLAND LEE [Virginia]

Moved that the house now resolve itself into a committee of the whole, on the report of the committee of eleven, to whom it had been referred to take the subject of amendments to the constitution of the United States generally into their consideration.

JOHN PAGE [Virginia]

Hoped the house would agree to the motion of his colleague without hesitation, because he conceived it essentially necessary to proceed and finish the business as speedily as possible; for whatever might be the fact with respect to the security which the citizens of America had for their rights and liberties under the new constitution, yet unless they saw it in that light they would be uneasy, not to say dissatisfied.

He thought, likewise, that the business would be expedited by the simplicity and self-evidence which the propositions reported, possessed, as it was impossible that much debate could take place.

THEODORE SEDGWICK [Massachusetts]

Was sorry that the motion was made, because he looked upon this as a very improper time to enter upon the consideration of a subject

which would undoubtedly consume many days, and when they had so much other and more important business requiring immediate attention; he begged gentlemen to recollect that all they had hitherto done was of little or no effect, their impost and tonnage laws were but a dead letter.

JAMES MADISON [Virginia]

Did not think it was an improper time to proceed in this business; the house had already gone through with subjects of a less interesting nature; now, if the judiciary bill was of such vast importance, its consideration ought not to have been postponed for those purposes.

He would remind gentlemen that there were many who conceived amendments of some kind necessary and proper in themselves; while others who are not so well satisfied of the necessity and propriety, may think they are rendered expedient from some other consideration. Is it desirable to keep up a division among the people of the United States on a point in which they consider their most essential rights are concerned? If this is an object worthy the attention of such a numerous part of our constituents, why should we decline taking it into our consideration, and thereby promote that spirit of urbanity and unanimity which the government itself stands in need of for its more full support?

Already has the subject been delayed much more than could have been wished: If after having fixed a day for taking it into consideration, we should put it off again, a spirit of jealousy may be excited, and not allayed, without great inconvenience.

JOHN VINING [Delaware]

Impressed by the anxiety which the honorable gentleman from Virginia had discovered for having the subject of amendments considered, had agreed, in his own mind, to wave for the present, the call he was well authorised to make, for the house to take into consideration the bill for establishing a land-office for the disposal of the vacant lands in the western territory; in point of time his motion had the priority, in point of importance every candid mind would acknowledge its preference, and he conceived the house was bound to pay attention to it as early as possible; as they had given leave for a bill to be brought in, they ought not to neglect proceeding onward with it.

THEODORE SEDGWICK [Massachusetts]

Hoped the house would not consume their time in a lengthy discussion upon what business should be done first; he was of opinion that there were several matters before them of more importance than the present, and he believed the people abroad were neither anxious nor jealous about it; but if they were, they would be satisfied at the delay,

when they were informed of the cause: He begged therefore that the question proposed by the gentleman from Virginia, (mr. Lee) might be put without further debate.

WILLIAM LOUGHTON SMITH [South Carolina]

Said that the judicial bill was entitled to the preference in point of order, and in point of propriety it deserved the first attention of the house; for his part he could not conceive the necessity of going into any alterations of the government until the government itself was perfected; the constitution establishes three branches to constitute a whole; the legislative and executive are now in existence; but the judicial is uncreated; while we remain in this state not a single part of the revenue system can operate; no breach of your laws can be punished; illicit trade cannot be prevented; greater harm will arise from delaying the establishment of the judicial system, than can possibly grow from a delay of the other subject. If gentlemen are willing to let it lie over to a period of greater leisure, I shall join them cheerfully and candidly, said he, in a full discussion of that business.

An honorable gentleman from Virginia observed to us that these propositions were so self evident, that little or no debate could grow out of them; that may be his opinion, but truly, sir, it is not mine, for I think some of them are not self evident, and some of them will admit of lengthy discussion, and other some, I hope, may be rejected, while their place may be better supplied by others hereafter to be brought forward: Some members are pledged to support amendments, and will no doubt support them with all the arguments their fancy or ingenuity can suggest; viewing it in this light, is it to be expected that the discussion will be ended in less than a fortnight or three weeks, and let gentlemen consult their own feelings whether they have so much time now to spare.

THOMAS HARTLEY [Pennsylvania]

Thought the judicial system ought to be finished before any other business was entered upon, and was willing to consider of amendments to the constitution when the house was more disengaged, because he wished very much that the constitution was so modified as to give satisfaction to honest and candid minds, such would be satisfied with securing to themselves and their posterity, all those blessings of freedom which they are now possessed of; As to the artful and designing, who had clamored against the whole work, he had not the smallest desire to gratify them; he hoped and trusted their numbers were but few.

ELBRIDGE GERRY [Massachusetts]

Thought the discussion would take up more time than the house could now spare; he was therefore in favor of postponing the consid-

eration of the subject, until the judicial bill, and the bill for registering and clearing vessels, and some other bills relating to the revenue business were gone through. He asked the gentleman from Virginia, if he conceived that the amendments in the report were all that were to be taken into consideration; he thought the community would be little more pleased with them than if they had omitted the subject altogether; besides, it was absurd to suppose that the members were obliged to confine their deliberations solely to those objects when it was very well known that the members from Massachusetts and New-Hampshire were bound to bring forward and support others; the members from other states may be inclined to do the same with respect to the amendments of their own conventions, this will inevitably produce a more copious debate than what the gentleman contemplates; upon these considerations it might be hoped that honorable gentlemen would no longer press the motion.

JOHN LAURANCE [New York]

Had no objection to consider of amendments at a proper time, but did not think that the present was a proper time to enter upon them, nor did he suppose that gentlemen would be precluded from a full discussion of the whole subject whenever it was taken up: Gentlemen would find him ready to acquiesce in every thing that was proper, but he could not consent to let the great business of legislation stand still, and thereby incur an absolute evil in order to rid themselves of an imaginary one, for whether the subject of amendments was considered now or at a more distant period, appeared to his mind a matter of mere indifference: It may further be observed, that few, if any of the state assemblies, are now in session, consequently the business could not be completed even if congress had already done their part; but certainly the people in general are more anxious to see the government in operation than speculative amendments upon an untried constitution.

JAMES MADISON [Virginia]

I beg leave to make one or two remarks more in consequence of the observations which have fell from the different sides of the house: Some gentlemen seem to think that additional propositions will be brought forward, whether they will or not I cannot pretend to say; but if they are, I presume they will be no impediment to our deciding upon those contained in the report. But gentlemen who introduce these propositions will see, that if they are to produce more copious debate than has hitherto taken place, they will consume a great part of the remainder of the session. I wish the subject well considered, but I do not wish to

see any unnecessary waste of time, and gentlemen will please to remember that this subject has yet to go before the senate.

I admit, with the worthy gentleman who preceded me, that a great number of the community are solicitous to see the government carried into operation; but I believe that there is a considerable part also anxious to secure those rights which they are apprehensive are endangered by the present constitution; now, considering the full confidence they reposed at the time of its adoption in their future representatives, I think we ought to pursue the subject to effect. I confess it has always appeared to me in point of candor and good faith, as well as policy, to be incumbent on the first legislature of the United States, at their first session, to make such alterations in the constitution as will give satisfaction without injuring or destroying any of its vital principles.

I should not press the subject at this time, because I am well aware of the importance of the other business enumerated by the gentlemen who are adverse to the present motion, but, from an apprehension that if it is delayed until the other is gone through, that gentlemen's patience and application will be so harassed and fatigued as to oblige them to leave it an unfinished state, until the next session; beside, was the judicial bill even to pass now, it could not take effect until others were enacted, which probably at this time are not drawn up.

WILLIAM LOUGHTON SMITH [South Carolina]

The honorable gentleman has concluded his remarks by assigning the best reason in the world why we should go into a consideration of the judicial bill; he says that even if it was now passed, it would take some time before it could get into operation, he must admit it to be an essential part of the government, and as such ought not to remain a single instant in a state of torpidity.

THOMAS FITZSIMONS [Pennsylvania]

Wished the gentleman would suffer the question to be put, and not consume their time in arguing about what should be done: If a majority was not in favor of considering amendments they might proceed to some other business.

JOHN PAGE [Virginia]

Was positive the people would never support the government, unless their anxiety was removed; they in some instances, adopted it, in confidence of its being speedily amended; they will complain of being deceived, unless their expectations are fulfilled. So much time has elapsed since the subject was first brought forward, said he, that people will not think us serious, unless we now set about and complete it.

He begged gentlemen to consider the importance of the number of citizens, who were anxious for amendments; if these had been added to those who openly opposed the constitution, it possibly might have met a different fate. Can the government, under these circumstances, possess energy, as some gentlemen suppose? Is not the confidence of the people absolutely necessary to support it?

The question was now put, and carried in the affirmative. The house then resolved itself into a committee of the whole, and took the amendments under consideration. The first article run thus, In the introductory paragraph of the constitution, before the words “‘WE THE PEOPLE,’ *add* ‘Government being intended for the benefit of the people and the rightful establishment thereof, being derived from their authority alone.’”

ROGER SHERMAN [Connecticut]

I believe, mr. chairman, this is not the proper mode of amending the constitution. We ought not to interweave our propositions into the work itself, because it will be destructive of the whole fabric. We might as well endeavor to mix brass, iron and clay, as to incorporate such heterogeneous articles; the one contradictory to the other. Its absurdity will be discovered by comparing it with a law: would any legislature endeavor to introduce into a former act, a subsequent amendment, and let them stand so connected. When an alteration is made in an act, it is done by way of supplement; the latter act always repealing the former in every specified case of difference.

Beside this, sir, it is questionable, whether we have the right to propose amendments in this way. The constitution is the act of the people, and ought to remain entire. But the amendments will be the act of the state governments; again all the authority we possess, is derived from that instrument; if we mean to destroy the whole and establish a new constitution, we remove the basis on which we mean to build. For these reasons I will move to strike out that paragraph and substitute another.

The paragraph proposed, was to the following effect; Resolved by the senate and house of representatives of the United States in congress assembled, That the following articles be proposed as amendments to the constitution; and when ratified by three fourths of the state legislatures shall become valid to all intents and purposes, as part of the same.

Under this title, the amendments might come in nearly as stated in the report, only varying the phraseology so as to accommodate them to a supplementary form.

JAMES MADISON [Virginia]

Form, sir, is always of less importance than the substance; but on this occasion, I admit that form is of some consequence, and it will be well for the house to pursue that, which upon reflection, shall appear to be the most eligible. Now it appears to me, that there is a neatness and propriety in incorporating the amendments into the constitution itself; in that case the system will remain uniform and entire; it will certainly be more simple, when the amendments are interwove[n] into those parts to which they naturally belong, than it will if they consist of separate and distinct parts; we shall then be able to determine its meaning without references or comparison; whereas, if they are supplementary, its meaning can only be ascertained by a comparison of the two instruments, which will be a very considerable embarrassment, it will be difficult to ascertain to what parts of the instrument the amendments particularly refer; they will create unfavorable comparisons, whereas if they are placed upon the footing here proposed, they will stand upon as good foundation as the original work.

Nor is it so uncommon a thing as gentlemen suppose, systematic men frequently take up the whole law, and with its amendments and alterations reduce it into one act. I am not, however, very solicitous about the form, provided the business is but well completed.

WILLIAM LOUGHTON SMITH [South Carolina]

Did not think the amendment proposed by the honorable gentleman from Connecticut was compatible with the constitution, which declared, that the amendments recommended by congress, and ratified by the legislatures of three fourths of the several states should be part of this constitution; in which case it would form one complete system; but according to the idea of the amendment, the instrument is to have five or six suits of improvements, such a mode seems more calculated to embarrass the people than any thing else, while nothing in his opinion was a juster cause of complaint than the difficulties of knowing the law, arising from legislative obscurities that might easily be avoided. He said that it had certainly been the custom in several of the state governments, to amend their laws by way of supplement: but South Carolina, had been an instance of the contrary practice, in revising the old code; instead of making acts in addition to acts, which is always attended with perplexity, she has incorporated them, and brought them forward as a complete system, repealing the old. This is what he understood was intended to be done by the committee, the present copy of the constitution was to be done away, and a new one substituted in its stead.

THOMAS TUDOR TUCKER [South Carolina]

Wished to know whether the deliberations of the committee were intended to be confined to the propositions on the table, if they were not, he should beg leave to bring before them the amendments proposed by South Carolina;² he considered himself as instructed to bring them forward, and he meant to perform his duty by an early and prompt obedience. He wished to have the sense of the house on this point, whether he was in order to bring them forward.

SAMUEL LIVERMORE [New Hampshire]

Was clearly of opinion that whatever amendments were made to the constitution, that they ought to stand separate from the original instrument. We have no right, said he, to alter a clause, any otherwise than by a new proposition. We have well-established precedents for such a mode of procedure in the practice of the British parliament, and the state legislatures throughout America. I do not mean, however, to assert that there has been no instance of a repeal of a whole law on enacting another; but this has generally taken place on account of the complexity of the original, with its supplements. Were we a mere legislative body, no doubt it might be warrantable in us to pursue a similar method, but it is questionable whether it is possible for us, consistent with the oath we have taken, to attempt a repeal of the constitution of the United States, by making a new one to substitute in its place; the reason of this is grounded on a very simple consideration. It is by virtue of the present constitution, I presume, that we attempt to make another; now, if we proceed to the repeal of this, I cannot see upon what authority we shall erect another; if we destroy the base, the superstructure falls of course. At some future day it may be asked upon what authority we proceeded to raise and appropriate public monies, we suppose we do it in virtue of the present constitution; but it may be doubted whether we have a right to exercise any of its authorities, while it is suspended, as it will certainly be, from the time that two-thirds of both houses have agreed to submit it to the state legislatures; so that unless we mean to destroy the whole constitution, we ought to be careful how we attempt to amend it in the way proposed by the committee. From hence I presume it will be more prudent to adopt the mode proposed by the gentleman from Connecticut, than it will be to risk the destruction of the whole by proposing amendments in the manner recommended by the committee.

JOHN VINING [Delaware]

Disliked a supplementary form, and said it was a bad reason to urge the practice of former ages when there was a more convenient method of doing the business at hand; he had seen an act entitled an act to

amend a supplement to an act entitled an act for altering part of act entitled an act for certain purposes therein mentioned. If gentlemen were disposed to run into such jargon in amending and altering the constitution, he could not help it; but he trusted they would adopt a plainness and simplicity of style on this and every other occasion, which should be easily understood.—If the mode proposed by the gentleman from Connecticut was adopted, the system would be distorted, and like a careless written letter, have more matter attached to it in a postscript than was contained in the original composition.

The constitution being a great and important work, ought all to be brought into one view, and made as intelligible as possible.

GEORGE CLYMER [Pennsylvania]

Was of opinion with the gentleman from Connecticut, that the amendments ought not to be incorporated in the body of the work, which he hoped would remain a monument to justify those who made it; by a comparison, the world would discover the perfection of the original, and the superfluity of the amendments; he made this distinction because he did not conceive any of the amendments essential, but as they were solicited by his fellow citizens, and for that reason they were acquiesced in by others; he therefore wished the motion for throwing them into a supplementary form might be carried.

MICHAEL JENIFER STONE [Maryland]

It is not a matter of much consequence with respect to the preservation of the original instrument, whether the amendments are incorporated or made distinct; because the records will always shew the original form in which it stood. But in my opinion we ought to mark its progress with truth in every step we take. If the amendments are incorporated in the body of the work, it will appear, unless we refer to the archives of congress, that George Washington, and the other worthy characters who composed the convention, signed an instrument which they never had in contemplation. The one to which he affixed his signature purports to be adopted by the unanimous consent of the delegates from every state there assembled.

Now if we incorporate these amendments, we must undoubtedly go further, and say that the constitution so formed, was defective, and had need of alteration; we therefore purpose to repeal the old and substitute a new one in its place. From this consideration alone I think we ought not to pursue the line of conduct drawn for us by the committee. This perhaps is not the last amendment the constitution may receive, we ought therefore to be careful how we set a precedent which in dangerous and turbulent times, may unhinge the whole.

With respect to the observations of the gentleman from South Carolina, I shall just remark, that we have no authority to repeal the whole constitution. The words refer[r]ed to in that instrument, only authorises us to propose amendments to it, which, when properly ratified, are to become valid as a part of the same; but these can never be construed to empower us to make a new constitution.

For these reasons I would wish our expressions might be so guarded as to purport nothing but what we really have in view.

SAMUEL LIVERMORE [New Hampshire]

The mode adopted by the committee, might be very proper provided congress had the forming of a constitution in contemplation; then they, or an individual member might propose to strike out a clause and insert another, as is done with respect to article 3, section 2. But certainly no gentleman, acquainted with legislative business, would pretend to alter and amend in this manner, a law already passed. He was convinced it could not be done properly in any other way than by the one proposed by the gentleman from Connecticut.

ELBRIDGE GERRY [Massachusetts]

Asked if the mode could make any possible difference, provided the sanction was the same; or whether it would operate differently in any one instance? If it will not, we are disputing about form, and the question will turn on the expediency. Now one gentleman tells you, said he, that he is so attached to this instrument that he is unwilling to lose any part of it; therefore to gratify him, we may throw it into a supplementary form. But let me ask, will not this as effectually destroy some parts, as if the correction had been made by way of incorporation, or will posterity have a more favorable opinion of the original, because it has been amended by distinct acts? For my part I cannot see what advantage can accrue from adopting the motion of the honorable gentleman from Connecticut, unless it be to give every one the trouble of erasing out of his copy of the constitution certain words and sentences, and inserting others. But perhaps in our great veneration for the original composition, we may go farther, and pass an act to prohibit these interpolations, as it may injure the text.

All this, sir, I take to be trifling about matters of little consequence. The constitution has undoubtedly provided, that the amendments shall be incorporated, if I understand the import of the words, "and shall be valid to all intents and purposes, as part of the constitution." If it had said that the present form should be preserved, then it would be proper to propose the alterations by way of a supplement. One gentleman has said we shall lose the names that are now annexed to the

instrument. They are names, sir, I admit, of high respect; but I would ask that gentleman, if they would give validity to the constitution if it was not ratified by the several states, or if their names was struck out, whether it would be of less force than it is at present? If he answers these questions in the negative, I shall consider it of no consequence whether the names are appended to it or not. But it will be time enough to discuss this point when a motion is made for striking them out.

If we proceed in the way proposed by the honorable gentleman from Connecticut, I presume the title of our first amendment will be, a supplement to the constitution of the United States; the next a supplement to the supplement, and so on, until we have supplements annexed five times in five years, wrapping up the constitution in a maze of perplexity; and as great an adept as that honorable gentleman is at finding out the truth, it will take him, I apprehend, a week or a fortnight's study to ascertain the true meaning of the constitution.

It is said, if the amendments are incorporated it will be a virtual repeal of the constitution; I say the effect will be the same in a supplementary way, consequently the objection goes for nothing, or it goes against making any amendments whatever.

It is said that the present form of the amendments is contrary to the 5th article: I will not undertake to define the extent of the word amendment, as it stands in the fifth article; but I suppose if we proposed to change the division of the powers given to the three branches of the government, and that proposition is accepted and ratified by three-fourths of the state legislatures, it will become as valid to all intents and purposes as any part of the constitution; but if it is the opinion of gentlemen that the original is to be kept sacred, amendments will be of no use, and had better be omitted; whereas, on the other hand, if they are to be received as equal in authority, we shall have five or six constitutions, perhaps differing in material points from each other, but all equally valid; so that they may require a man of science to determine what is or is not the constitution, this will certainly be attended with great inconvenience, as the several states are bound up not to make laws contradictory thereto, and all officers sworn to support it without knowing precisely what it is.

MICHAEL JENIFER STONE [Maryland]

Asked the gentleman last up, how he meant to have the amendments incorporated? Was it intended to have the constitution republished, and the alterations inserted in their proper places? He did not see how it was practicable to propose amendments, without making out a new constitution, in the manner brought forward by the committee.

JOHN LAURANCE [New York]

Could not conceive how gentlemen meant to ingraft the amendments into the constitution: The original one executed by the convention at Philadelphia, was lodged in the archives of the late congress, it was impossible for this house to take and correct and interpolate that without making it speak a different language, this would be supposing several things which never were contemplated. But what, said he, would become of the acts of congress; they will certainly be vitiated, unless they are provided for, by an additional clause in the constitution.

What shall we say with respect to the ratifications of the several states; they adopted the original constitution, but they have not thereby enabled us to change the one form of government for another. It is true amendments were proposed by some of them, but it does not follow of necessity, that we should alter the form of the original which they have ratified. Amendments in this way are only proper in legislative business, while the bill is on its passage, as was justly observed before.

EGBERT BENSON [New York]

Said, that this question had been agitated in the select committee, and determined in favor of the form, in which it was reported; he believed this decision was founded in a great degree upon the recommendation of the state conventions, who had proposed amendments in this very form; this pointed out the mode most agreeable to the people of America, and therefore the one most eligible for congress to pursue; it will likewise be the most convenient way. Suppose the amendments ratified by the several states; congress may order a number of copies to be printed, into which the alterations will be inserted, and the work stand perfect and entire.

I believe it never was contemplated by any gentlemen to alter the original constitution deposited in the archives of the union, that will remain there with the names of those who formed it, while the government has a being. But certainly there is convenience and propriety in completing the work in a way provided for in itself. The records of congress, and the several states, will mark the progress of the business, and nothing will appear to be done but what is actually performed.

JAMES MADISON [Virginia]

The gentleman last up has left me but one remark to add, and that is, if we adopt the amendment, we shall so far unhinge the business as to occasion alterations in every article and clause of the report.

THOMAS HARTLEY [Pennsylvania]

Hoped the committee would not agree to the alteration, because it would perplex the business: He wished the propositions to be simple

and entire, that the state legislatures might decide without hesitation, and every man know what was the ground on which he rested his political welfare. Besides, the consequent changes which the motion would induce, were such as he feared would take up some days if not weeks; and the time of the house was too precious to be squandered away in discussing mere matter of form.

JOHN PAGE [Virginia]

Was sorry to find the gentlemen stop at the preamble, he hoped they would proceed as soon as the obstruction was removed, and that would be when the motion was negatived.

He thought the best way to view this subject, was to look at the constitution as a bill on its passage through the house, and to consider and amend its defects article by article, for which reason he was for entering at once upon the main business; after that was gone through it would be time enough to arrange the materials with which the house intended to form the preamble.

SAMUEL LIVERMORE [New Hampshire]

Insisted, that neither this legislature nor all the legislatures in America were authorised to repeal a constitution; and that must be an inevitable consequence of an attempt to amend it in the way proposed by the committee, he would then submit to gentlemen, the propriety of the alteration.

As to the difficulty which had been supposed in understanding supplemental laws; he thought but little of it; he imagined, there were things in the constitution more difficult to comprehend, than any thing he had yet seen in the amendments.

JAMES JACKSON [Georgia]

I do not like to differ with gentlemen about form, but as so much had been said, I wish to give my opinion, it is this, that the original constitution ought to remain inviolate, and not be patched up from time to time, with various stuffs resembling Joseph's coat of many colors.³

Some gentlemen talk of repealing the present constitution, and adopting an improved one. If we have this power, we may go on from year to year, making new ones; and in this way we shall render the basis of the superstructure the most fluctuating thing imaginable, and the people will never know what the constitution is. As for the alteration proposed by the committee to prefix before "We the people," certain dogmas, I cannot agree to it; the words as they now stand, speak as much as it is possible to speak, it is a practical recognition of the right of the people to ordain and establish governments, and is more expressive than any other mere paper declaration.

But why will gentlemen contend for incorporating amendments into the constitution? They say that it is necessary for the people to have the whole before them in one view; have they precedent for this assertion? Look at the constitution of Great Britain, is that all contained in one instrument? It is well known, that *magna charta* was extorted by the barons from king John some centuries ago. Has that been altered since by the incorporation of amendments? Or does it speak the same language now, as it did at the time it was obtained? Sir, it is not altered a tittle from its original form. Yet there has been many amendments and improvements in the constitution of Britain since that period. In the subsequent reign of his son, the great charters were confirmed with some supplemental acts. Is the *habeas corpus* act, or the statute *De Tallagio non concedendo*⁴ incorporated in magna charta? And yet there is not an Englishman but would spill the last drop of his blood in their defence; it is these, with some other acts of parliament and magna charta, that form the basis of English liberty. We have seen amendments to their constitution during the present reign, by establishing the independence of the judges, who are hereafter to be appointed during good behavior; formerly they were at the pleasure of the crown. But was this done by striking out and inserting other words in the great charter? No, sir, the constitution is composed of many distinct acts, but an Englishman would be ashamed to own that on this account he could not ascertain his own privileges or the authority of the government.

The constitution of the union has been ratified and established by the people, let their act remain inviolable; if any thing we can do has a tendency to improve it, let it be done, but without mutilating and defacing the original.

ROGER SHERMAN [Connecticut]

If I had looked upon this question as mere matter of form, I should not have brought it forward or troubled the committee with such a lengthy discussion. But, sir, I contend that amendments made in the way proposed by the committee are void: No gentleman ever knew an addition and alteration introduced into an existing law, and that any part of such law was left in force; but if it was improved or altered by a supplemental act, the original retained all its validity and importance in every case where the two were not incompatible. But if these observations alone should be thought insufficient to support my motion, I would desire gentlemen to consider the authorities upon which the two constitutions are to stand. The original was established by the people at large by conventions chosen by them for the express purpose. The

preamble to the constitution declares the act: But will it be a truth in ratifying the next constitution, which is to be done perhaps by the state legislatures, and not conventions chosen for the purpose. Will gentlemen say it is “We the people” in this case, certainly they cannot, for by the present constitution, we nor all the legislatures in the union together, do not possess the power of repealing it: All that is granted us by the 5th article is, that whenever we shall think it necessary, we may propose *amendments to the constitution*; not that we may propose to repeal the old, and substitute a new one.

Gentlemen say it would be convenient to have it in one instrument that people might see the whole at once; for my part I view no difficulty on this point. The amendments reported are a declaration of rights, the people are secure in them whether we declare them or not; the last amendment but one provides that the three branches of government shall each exercise its own rights, this is well secured already; and in short, I do not see that they lessen the force of any article in the constitution, if so, there can be little more difficulty in comprehending them whether they are combined in one, or stand distinct instruments.

WILLIAM LOUGHTON SMITH [South Carolina]

Read extracts from the amendments proposed by several of the state conventions at the time they ratified the constitution, from which he said it appeared that they were generally of opinion that the phraseology of the constitution ought to be altered; nor would this mode of proceeding repeal any part of the constitution but such as it touched, the remainder will be in force during the time of considering it and ever after.

As to the observations made by the honorable gentleman from Georgia, respecting the amendments made to the constitution of Great-Britain, they did not apply—the cases were nothing like similar, and consequently could not be drawn into precedent. The constitution of Britain is neither the magna charta of John, nor the Habeas Corpus act, nor all the charters put together; it is what the parliament wills; it is true there are rights granted to the subject that cannot be resumed, but the constitution or form of government may be altered by the authority of parliament, whose power is absolute without controul.

JOSHUA SENEY [Maryland]

Was afraid the house would consume more time than was at first apprehended in discussing the subject of amendments, if he was to infer any thing from what had now taken place: He hoped the question would soon be put and decided.

JOHN VINING [Delaware]

Was an enemy to unnecessary debate, but he conceived the question to be an important one, and was not displeased with the discussion that had taken place; he should, however, vote in favor of the most simple mode.

ELBRIDGE GERRY [Massachusetts]

The honorable gentleman from Connecticut, if I understand him right, says that the words, "We the people" cannot be retained if congress should propose amendments, and they be ratified by the state legislatures: Now if this is a fact, we ought most undoubtedly adopt his motion; because if we do not, we cannot obtain any amendment whatever. But upon what ground does the gentleman's position stand? The constitution of the United States was proposed by a convention met at Philadelphia, but with all its importance it did not possess as high authority as the president, senate, and house of representatives of the union: For that convention was not convened in consequence of any express will of the people, but an implied one, through their members in the state legislatures. The constitution derived no authority from the first convention; it was concurred in by conventions of the people, and that concurrence armed it with power, and invested it with dignity. Now the congress of the United States are expressly authorised by the sovereign and uncontrollable voice of the people, to propose amendments whenever two-thirds of both houses shall think fit: Now if this is the fact, the propositions of amendment will be found to originate with a higher authority than the original system. The conventions of the states respectively have agreed for the people, that the state legislatures shall be authorised to decide upon these amendments in the manner of a convention. If these acts of the state legislatures are not good because they are not specifically instructed by their constituents, neither were the acts calling the first and subsequent conventions.

Does he mean to put amendments on this ground, that after they have been ratified by the state legislatures they are not to have the same authority as the original instrument; if this is his meaning, let him avow it, and if it is well founded, we may save ourselves the trouble of proceeding in the business. But for my part I have no doubt but a ratification of the amendments, in any form, would be as valid as any part of the constitution. The legislatures are elected by the people; I know no difference between them and conventions, unless it be that the former will generally be composed of men of higher characters than may be expected in conventions; and in this case, the ratification by the legislatures would have the preference.

Now if it is clear that the effect will be the same in either mode, will gentlemen hesitate to approve the most simple and clear? It will undoubtedly be more agreeable to have it all brought into one instrument, than have to refer to five or six different acts.

ROGER SHERMAN [Connecticut]

The gentlemen who oppose the motion say we contend for matter of form; they think it nothing more; now we say we contend for substance, and therefore cannot agree to amendments in this way. If they are so desirous of having the business compleated, they had better sacrifice what they consider but a matter of indifference to get gentlemen to go more unanimously along with them in altering the constitution.

The question on Mr. Sherman's motion was now put and lost.

SAMUEL LIVERMORE [New Hampshire]

Wished to know whether it was necessary, in order to carry a motion in committee, that two-thirds should agree.

THOMAS HARTLEY [Pennsylvania]

Mentioned that in Pennsylvania they had a council of censors who were authorised to call a convention to amend the constitution when it was thought necessary, but two-thirds were required for that purpose; he had been a member of that body, when they had examined the business in a committee of council, the majority made a report, which was lost for want of two-thirds to carry it through the council.

Some desultory conversation took place on this subject, when it was decided by the chairman of the committee, that a majority of the committee were sufficient to form a report.

An appeal being made from the opinion of the chair, it was, after some observations, confirmed by the committee, after which the committee rose and reported progress.

1. *Congressional Register*, II, 161–79. Two different long reports of the debates were printed in the *Gazette of the United States* on 15 August, and the *New York Daily Advertiser* on 14 August. The *Gazette* version was reprinted in twenty-one newspapers by 10 September: N.H. (2), Mass. (8), R.I. (2), Conn. (3), N.Y. (2), Pa. (1), N.J. (2), Va. (1), and in the December 1789 issue of the *Philadelphia American Museum*. The *Advertiser* version was reprinted in eleven newspapers by 16 September: Vt. (1), Conn. (1), N.Y. (2), Pa. (5), Md. (2). The *New York Daily Gazette*, 14 August, printed a one-paragraph summary that was reprinted thirteen times by 2 September: Mass. (1), R.I. (1), Conn. (1), N.Y. (2), Pa. (5), Md. (1), Va. (2).

2. For South Carolina's proposed amendments, see BoR, I, 247–49.

3. For Joseph's coat of many colors, see Genesis 37:3.

4. The 1297 statute De Tallagio non concedendo placed limitations on the right of English kings to levy arbitrary taxes. This right was finally surrendered by statute in 1340.

House Debates, Friday, 14 August 1789¹

The house then resolved itself into a committee of the whole on the amendments to the constitution.

Mr. [Jonathan] TRUMBULL [Connecticut] in the chair.

Mr. [William Loughton] SMITH [South Carolina] wished to transpose the words of the first amendment, as they did not satisfy his mind in the manner they stood.

ELBRIDGE GERRY [Massachusetts]

Said they were not well expressed, we have it here “government being intended for the benefit of the people,” this holds up an idea that all the governments of the earth are intended for the benefit of the people: Now, I am so far from being of this opinion, that I don’t believe that one out of fifty is intended for any such purpose. I believe the establishment of most governments was to gratify the ambition of an individual, who by fraud, force, or accident, had made himself master of the people. If we contemplate the history of nations, ancient or modern, we shall find they originated either in fraud or force, or both; if this is demonstrable, how can we pretend to say that governments are intended for the benefit of those who are most oppressed by them. This maxim does not appear to me to be strictly true in fact, therefore I think we ought not to insert it in the constitution. I shall therefore propose to amend the clause by inserting “of right,” then it will stand as it ought. I do not object to the principle, sir, it is a good one, but it does not generally hold in practice.

The question on inserting the words “of right” was put, and determined in the negative.

THOMAS TUDOR TUCKER [South Carolina]

I presume these propositions are brought forward under the idea of being amendments to the constitution; but can this be esteemed an amendment of the constitution? If I understand what is meant by the introductory paragraph, it is the preamble to the constitution; but a preamble is no part of the constitution; it is, to say the best, an useless amendment: For my part I should as soon think of amending the concluding part, consisting of general Washington’s letter to the president of congress, as the preamble;—but if the principle is of importance, it may be introduced into a bill of rights.

WILLIAM LOUGHTON SMITH [South Carolina]

Read the amendments on this head, proposed by the conventions of New-York, Virginia, and North-Carolina,² from which it appeared that these states had expressed a desire to have an amendment of this kind.

THOMAS TUDOR TUCKER [South Carolina]

Replied that the words "We the people do ordain and establish this constitution for the United States of America," was a declaration of their action; this being performed, congress have nothing to do with it: But if it was necessary to retain the principle, it might come in at some other place.

THOMAS SUMTER [South Carolina]

Thought this was not a proper place to introduce any general principle; perhaps in going through with the amendments something might be proposed subversive of what was there declared; wherefore he wished the committee would pass over the preamble until they had gone through all the amendments, and then, if alterations were necessary, they could be accommodated to what had taken place in the body of the constitution.

SAMUEL LIVERMORE [New Hampshire]

Was not concerned about the preamble; he did not care what kind it was agreed to form in the committee; because, when it got before the house it would be undone if one member more than one third of the whole opposed it.

JOHN PAGE [Virginia]

Thought the preamble no part of the constitution, but if it was, it stood in no need of amendment; the words "We the people," had a neatness and simplicity, while its expression was the most forcible of any he had ever seen prefixed to any constitution. He did not doubt the truth of the proposition brought forward by the committee, but he doubted its necessity in this place.

JAMES MADISON [Virginia]

If it be a truth, and so self evident that it cannot be denied; if it be recognized, as is the fact in many of the state constitutions; and if it be desired by three important states, to be added to this, I think they must collectively offer a strong inducement to the mind desirous of promoting harmony, to acquiesce with the report; at least some strong arguments should be brought forward to shew the reason why it is improper.

My worthy colleague says the original expression is neat and simple; that loading it with more words may destroy the beauty of the sentence, and others say it is unnecessary, as the paragraph is complete without it, be it so in their opinion; yet, still it appears important in the estimation of three states, that this solemn truth should be inserted in the constitution. For my part, sir, I do not think the association of ideas

any ways unnatural; it reads very well in this place, so much so that I think gentlemen who admit it should come in somewhere, will be puzzled to find a better place.

ROGER SHERMAN [Connecticut]

Thought they ought not to come in in this place. The people of the United States have given their reasons for doing a certain act; here we propose to come in and give them a right to do what they did on motives which appeared to them sufficient to warrant their determination—to let them know that they had a right to exercise a natural and inherent privilege which they have asserted in a solemn ordination and establishment of the constitution. Now if this right is indefeasible, and the people have recognized it in practice, the truth is better asserted than it can be by any words whatever—the words “We the people” in the original constitution are copious and expressive as possible; any addition will only drag out the sentence without illuminating it; for these reasons it may be hoped the committee will reject the proposed amendment.

The question on the first paragraph of the report was put and carried in the affirmative, 27 to 23.

Second paragraph in the report was read as follows;

Art. 1. Sect. 2. Par. 3. Strike out all between the words “direct” and “and until such” and instead thereof insert “after the first enumeration, there shall be one representative for every 30,000, until the number shall amount to 100. After which the proportion shall be so regulated by congress that the number of representatives, shall never be less than one hundred, nor more than one hundred and seventy-five; but each state shall always have at least one representative.[’]”

JOHN VINING [Delaware]

The duty, sir, which I owe to my constituents, and my desire to establish the constitution on a policy, dictated by justice and liberality, which will ever secure domestic tranquillity, and promote the general welfare, induces me to come forward with a motion, which I rest upon its own merits. Gentlemen who have a magnanimous policy in view, I trust will give it their support; and concede to what is proper in itself, and likely to procure a greater degree of harmony. I therefore move you, sir, to insert after the words “one hundred and seventy-five,” these words, “That where the number of inhabitants of any particular state amounts to 45,000, they shall be entitled to two representatives.[’]”

This motion was negatived without a division.

FISHER AMES [Massachusetts]

Moved to strike out thirty thousand, and insert forty thousand. I am induced to this, said he, because I think my fellow citizens will be dis-

satisfied with too numerous a representation. The present I believe is in proportion to 1 for 40,000 the number I move to insert. I believe we have hitherto experienced no difficulty on account of the smallness of our number; if we are embarrassed, I apprehend the embarrassment will arise from our want of knowing the general interest of the nation at large; or for want of local information. If the present number is found sufficient for the purpose of legislation without any such embarrassment, it ought to be preferred, inasmuch as it is most adequate to its object.

But before we proceed in the discussion, let us consider the effect, which a representation, founded on 1 member for 30,000 citizens will produce. In the first place it will give 4 members for every 3 now intitled to seat in this house, which will be an additional burthen to the union, in point of expence in the same ratio: add to this another consideration, that probably before the first census is taken, the number of inhabitants will be considerably encreased, from what it was when the convention which formed this constitution obtained their information. This will probably encrease the expences of government to 450,000 dollars annually. Now those who have attended particularly to œconomy; who upon the most careful calculation find that our revenue is like to fall infinitely short of our expences, will consider this saving as a considerable object, and deserving their most serious regard.

It may become dissatisfactory to the people as an intolerable burthen. Again it must be abundantly clear to every gentleman, that in proportion as you encrease the number of representatives the body degenerates, you diminish the individual usefulness, gentlemen will not make equal exertions to dispatch public business when they can lean upon others for the arrangement.

By enlarging the representation, we lessen the chance of selecting men of the greatest wisdom and abilities; because small district elections may be conducted by intrigue; but in large districts nothing but real dignity of character can secure an election. Gentlemen ought to consider how essential it is to the security and welfare of their constituents, that this branch of the government should support its independence and consequence.

Another effect of it will be an excitation, or fermentation in the representative body. Numerous assemblies are supposed to be less under the guidance of reason than smaller ones; their deliberations are confused; they will fall the prey of party spirit; they will cabal to carry measures which they would be unable to get through by fair and open argument. All these circumstances tend to retard the public business, and increase the expence; making government in the eyes of some so odious as to induce them to think it rather a curse than a blessing.

It lessens that responsibility which is annexed to the representative of a more numerous body of people. For I believe it will be found true that the representative of 40,000 citizens, will have more at risque than the man who represents a part of them; he has more dignity of character to support; and must use the most unremitting industry in their service to preserve it unsullied; he will be more sensible of the importance of his charge, and more indefatigable in his duty.

It is said that these amendments are introduced with a view to conciliate the affections of the people to the government, I am persuaded the people are not anxious to have a large representation, or a representation of one for every 30,000; they are satisfied with the representation they now enjoy. The great object which the convention of Massachusetts had in view by proposing this amendment, was to obtain a security, that congress should never reduce the representation below what they conceived to be a point of security. Their object was not an augmentation, it was certainty alone they wished for; at the next census the number of representatives will be 70 or 80, and in 20 years it will be equal to the desires of any gentleman, we shall have to guard against its growth in less than half a century. The number of proper characters to serve in the legislature of any country is small; and of those many are inclined to pursue other objects. If the representation is greatly enlarged, men of inferior abilities will undoubtedly creep in, for altho' America has as great a proportion of men of sense and judgment as any nation on earth; yet she may not have sufficient to fill a legislative body unduly enlarged. Now if it has been questioned whether this country can remain united under a government administered by men of the most consummate abilities; the sons of wisdom, and the friends of virtue. How much more doubtful will it be if the administration is thrown into different hands; and different hands must inevitably be employed if the representation is too large.

JAMES MADISON [Virginia]

I cannot concur in sentiment with the gentleman last up, that I representative for 40,000 inhabitants will conciliate the minds of those to the government, who are desirous of amendments; because they have rather wished for an increase, than confined themselves to a limitation.

I believe, by this motion, we shall avoid no inconvenience that can be considered of much consequence, for one member for either 30,000 or 40,000 inhabitants, will, in a few years, give the number beyond which it is proposed congress shall not go.

Now if good policy requires that we accommodate the constitution to the wishes of that part of the community who are anxious for amend-

ments, we shall agree to something like what is proposed in the report, for the states of New-Hampshire, Massachusetts, New-York, Virginia and North-Carolina, have desired an alteration on this head; some have required an encrease as far as 200 at least: this does not look as if certainty was their sole object.

I do not consider it necessary, on this occasion, to go into a lengthy discussion of the advantages of a less or greater representation. I agree that after going beyond a certain point, the number may become inconvenient; that is proposed to be guarded against; but it is necessary to go to a certain number in order to secure the great objects of representation. Numerous bodies are undoubtedly liable to some objections, but they have their advantages also; if they are more exposed to passion and fermentation, they are less subject to venality and corruption; and in a government like this, where the house of representatives is connected with a smaller body it might be good policy to guard them in a particular manner against such abuse.

But for what shall we sacrifice the wishes of the people? Not for a momentary advantage: Yet the amendment proposed by the gentleman from Massachusetts will lose its efficacy after the second census; I think, with respect to futurity, it makes little or no difference; and as it regards the present time, 30,000 is the most proper, because it is the number agreed upon in the original constitution, and what is required by several states.

THEODORE SEDGWICK [Massachusetts]

Observed, that the amendment proposed by the convention of Massachusetts was carried there, after a full discussion; since then, the whole of the amendments proposed by the convention had been recommended by the legislature of that state, to the attention of their delegates in congress. From these two circumstances he was led to believe, that his, and his colleagues' constituents, were generally in favor of the amendment as stated in the report.

He did not expect any advantage would arise from enlarging the number of representatives beyond a certain point; but he thought 175 rather too few.

ELBRIDGE GERRY [Massachusetts]

My colleague (mr. Ames) has said that we experience no inconvenience for want of either general or local knowledge. Sir, I may dispute the fact from the difficulties we encountered in carrying through the collection bill, and on some other occasions, where we seemed much at a loss to know what were the dispositions of our constituents. But admitting this to be the fact; is information the only principle upon

which we are to stand? Will that gentleman pretend to say we have as much security in a few representatives as in many? Certainly he will not. Not that I would insist upon a burthensome representation, but upon an adequate one. He supposes the expences of the government will be increased in a very great proportion; but if he calculates with accuracy he will find the difference of the pay of the additional members not to exceed a fourth: The civil list was stated to cost 300,000 dollars, but the house of representatives does not cost more than a ninth of that sum; consequently the additional members, at the ratio of 4 for 3, could not amount to more than a thirtieth part, which would fall far short of what he seemed to apprehend. Is this such an object as to induce the people to risk every security which they ought to have in a more numerous representation?

One observation which I understood fell from him, was, that multiplying the number of representatives, diminished the dignity and importance of the individuals who compose the house. Now I wish to know whether he means that we should establish our own importance at the risk of the liberties of America, if so, it has been of little avail that we successfully opposed the lordly importance of a British parliament. We shall now, I presume, be advised to keep the representation where it is, in order to secure our dignity; but I hope it will be ineffectual, and that gentlemen will be inclined to give up some part of their consequence to secure the rights of their constituents.

My honorable colleague has said that large bodies are subject to fermentations; true, sir, but so are small ones also, when they are composed of aspiring and ambitious individuals. Large bodies in this country are likely to be composed in a great measure of gentlemen who represent the landed interest of the country; these are generally more temperate in debate than others, consequently, by increasing the representation we shall have less of this fermentation than on the present establishment. As to the other objections, they are not of sufficient weight to induce the house to refuse adopting an amendment recommended by so large a body of our constituents.

SAMUEL LIVERMORE [New Hampshire]

Was against the alteration, because he was certain his constituents were opposed to it: He never heard a single person but supposed that one member was little enough to represent the interest of 30,000 inhabitants; many had thought the proportion ought to be 1 for 20 or 25,000. It would be useless to propose amendments which there was no probability of getting ratified; and he feared this would be the fate of the one under consideration, if the honorable gentleman's alteration took place.

FISHER AMES [Massachusetts]

Begged to know the reasons upon which amendments were founded: He hoped it was not purely to gratify an indigested opinion; but in every part where they retouched the edifice, it was with an intention of improving the structure; they certainly could not think of making alterations for the worse. Now, that his motion would be an improvement, was clearly demonstrable from the advantage in favor of deliberating by a less numerous body, and various other reasons already mentioned; but to those, the honorable gentleman from Virginia, (mr. Madison) replied, by saying we ought to pay attention to the amendments recommended by the states; if this position is true, we have nothing more to do than read over their amendments, and propose them without exercising our judgment upon them. But he would undertake to say that the object of the people was rather to procure certainty, than encrease; if so, it was the duty of congress rather to carry the spirit of the amendment into operation than the letter of it.

The house of representatives will furnish a better check upon the senate, if filled with men of independent principles, integrity, and eminent abilities, than if consisting of a numerous body of inferior characters; in this opinion, said he, my colleague cannot but agree with me: Now if you diminish the consequence of the whole, you diminish the consequence of each individual, it was in this view that I contended for the importance of the members.

He said it could not be the wish of Massachusetts to have the representation numerous, because they were convinced of its impropriety in their own legislature, which might justly be supposed to require a greater number, as the objects of their deliberation extended to minute and local regulations. But that kind of information was not so much required in congress, whose power embraced national objects alone. He contended that all the local information necessary in this house, was to be found as fully among the ten members from Massachusetts,³ as if there had been one from every town in the state.

It is not necessary to encrease the representation, in order to guard against corruption, because no one will presume to think that a body composed like this, and encreased in a ratio of 4 to 3, will be much less exposed to sale than we are. Nor is a greater number necessary to secure the rights and liberties of the people, for the representative of a great body of people, is likely to be more watchful of its interests than the representative of a lesser body.

JAMES JACKSON [Georgia]

I have always been afraid of letting this subject come before the house, for I was apprehensive that something would be offered striking at the

very foundation of the constitution, by lessening it in the good opinion of the people. I conceive that the proposition for encreasing the ratio of representation will have this tendency; but I am not opposed to the motion only on the principle of expediency, but because I think it grounded on wrong principles. The honorable gentleman's arguments were as much in favor of entrusting the business of legislation to one, two, or three men as to a body of sixty or a hundred, they would dispatch business with greater facility and be an immense saving to the public; but will the people of America be gratified with giving the power of managing their concerns into the hands of one man? Can this take place upon the democratic principle of the constitution, I mean the doctrine of representation? Can one man, however consummate his abilities, however unimpeachable his integrity, and however superior his wisdom, be supposed capable of understanding, combining and managing interests so diversified as those of the people of America. It has been complained of that the representation is too small at one for 30,000, we ought not therefore attempt to reduce it.

In a republic, the laws should be founded upon the sense of the community; if every man's opinion could be obtained it would be the better; it is only in aristocracies, where the few are supposed to understand the general interests of the community more than the many: I hope I shall never live to see that doctrine established in this country.

MICHAEL JENIFER STONE [Maryland]

Supposed the United States to contain 3,000,000 of people; these, at one representative for every 30,000 would give a hundred members, of which fifty-one were a quorum to do business; twenty-six men would be the majority, and give law to the United States, together with seven in the senate: If this was not a number sufficiently small to administer the government, he did not know what was; he was satisfied that gentlemen, upon mature reflection, would deem it inexpedient to reduce that number one-fourth.

JOSHUA SENEY [Maryland]

Said it had been observed by the gentleman from Massachusetts, that it would tend to diminish the expence, but he considered this object as very inconsiderable when compared with that of having a fair and full representation of the people of the United States.

Mr. AMES's motion was now put, and lost by a large majority.

THEODORE SEDGWICK [Massachusetts]

When he reflected on the country, and the increase of population which was likely to take place, he was led to believe that one hundred

and seventy-five members would be a body rather too small to represent such extensive concerns—for this reason he would move to strike out a hundred and seventy-five and insert two hundred.

ROGER SHERMAN [Connecticut]

Said if they were now forming a constitution, he should be in favor of one representative for 40,000 rather than 30,000; the proportion by which the several states are now represented in this house, was founded on the former calculation; in the convention that framed the constitution, there was a majority in favor of 40,000, and though there were some in favour of 30,000 yet that proposition did not obtain until after the constitution was agreed to, when the president had expressed a wish that 30,000 should be inserted, as more favorable to the public interest;⁴ during the contest between 30 and 40,000, he believed there were not more than nine states who voted in favour of the former.

The objects of the federal government were fewer than those of the state governments; they did not require an equal degree of local knowledge; the only case, perhaps, where local knowledge would be advantageous, was in laying direct taxes; but here they were freed from an embarrassment, because the arrangements of the several states might serve as a pretty good rule on which to found their measures.

So far was he from thinking a hundred and seventy-five insufficient, that he was about to move for a reduction, because he always considered that a small body deliberated to better purpose than a greater one.

JAMES MADISON [Virginia]

Hoped gentlemen would not be influenced by what had been related to have passed in the convention; he expected the committee would determine upon their own sense of propriety; though as several states had proposed the number of two hundred, he thought some substantial reason should be offered to induce the house to reject it.

SAMUEL LIVERMORE [New Hampshire]

Said that he did not like the amendment as it was reported; he approved of the ratio being one for 30,000, but he wished the number of representatives might be increased in proportion as the population of the country increased, until the number of representatives amounted to two hundred.

THOMAS TUDOR TUCKER [South Carolina]

Said the honorable gentleman who spoke last had anticipated what he was going to remark. It appeared to him that the committee had looked but a very little way forward when they agreed to fix the rep-

resentation at one hundred members, on a ratio of one to every 30,000 upon the first enumeration; he apprehended the United States would be found to comprehend near 3,000,000 of people, consequently they would give a hundred members, now, by the amendment, it will lay in the power of congress to prevent any addition to that number; if it should be a prevalent opinion among the members of this house that a small body was better calculated to perform the public business than a larger one, they will never suffer their members to increase to a hundred and seventy-five, the number to which the amendment extended.

ELBRIDGE GERRY [Massachusetts]

Expressed himself in favour of extending the number to two hundred, and wished that the amendment might be so modified as to insure an increase in proportion to the increase of population.

ROGER SHERMAN [Connecticut]

Was against any increase; he thought that if a future house should be convinced of the impropriety of increasing this number to above one hundred, they ought to have it at their discretion to prevent it, and if that was likely to be the case, it was an argument why the present house should not decide. He did not consider that all that had been said with respect to the advantages of a large representation was founded upon experience; it had been intimated that a large body was more incorruptible than a smaller one; this doctrine was not authenticated by any proof, he could invalidate it by an example notorious to every gentleman in this house; he alluded to the British house of commons, which altho' it consisted of upwards of 500 members, the minister always contrived to procure votes enough to answer his purpose.

JOHN LAURANCE [New York]

Said that it was a matter of opinion upon which gentlemen held different sentiments whether a greater or less number than a certain point, was best for a deliberative body; but he apprehended that whatever number was now fixed, would be continued by a future congress, if it was left to their discretion; he formed this opinion from the influence of the senate, in which the small states were represented in an equal proportion with the larger ones: He supposed that the senators from New-Hampshire, Rhode-Island, Connecticut, Jersey, and Delaware would ever oppose an augmentation of the number of representatives; because their influence in the house would be proportionably abated.— These states were incapable of extending their population beyond a certain point, inasmuch as they were confined with respect to territory; if therefore they could never have more than one representative, they

would hardly consent to double that of others, by which their own importance would be diminished. If such a measure was carried by the large states through this house, it might be successfully opposed in the senate; he would therefore be in favor of encreasing the number to 200, and making its increase gradual till it arrived at that height.

ELBRIDGE GERRY [Massachusetts]

The presumption is, that if provision is not made for the increase of the house of representatives, by the present congress, the increase never will be made. Gentlemen ought to consider the difference between the government in its infancy and when well established. The people suppose their liberties somewhat endangered; they have expressed their wishes to have them secured, and instructed their representatives to endeavour to obtain for them certain amendments, which they imagine will be adequate to the object they have in view; besides this, there are two states not in the union, but which we hope to annex to it by the amendments now under deliberation; these are inducements for us to proceed and adopt this amendment, independent of the propriety of the amendment itself, and such inducements as no future congress will have, the principle of self interest and self importance will always operate on them to prevent any addition to the number of representatives. Cannot gentlemen contemplate a difference in situation between this and a future congress on other accounts. We have neither money nor force to administer the constitution, but this will not be the case hereafter. In the progress of this government its revenues will increase, and an army will be established; a future legislature will find other means to influence the people than now exists.

This circumstance proves that we ought to leave as little as possible to the discretion of the future government; but it by no means proves that the present congress ought not to adopt the amendment moved by my colleague, Mr. Sedgwick.

Fisher Ames [Massachusetts]

It has been observed that there will be an indisposition in future legislatures to increase the number of representatives. I am by no means satisfied that this observation is true: I think there are motives which will influence legislatures of the best kind to increase the number of its members; there is a constant tendency in a republican government to multiply what it thought to be the popular branch: If we consider that men are often more attached to their places than they are to their principles, we shall not be surprised to see men of the most refined judgment advocating a measure which will increase their chance of continuing in office.

My honorable colleague has intimated that a future legislature will be against extending the number of this branch, and that if the people are displeased, they will have it in their power, by force, to compel their acquiescence. I do not see, sir, how the legislature is strengthened by an increase of an army: I have generally understood that it gave power to the executive arm, but not to the deliberative head; the example of every nation is against him: Nor can I conceive upon what foundation he rests his reasoning; If there is a natural inclination in the government to increase the number of administrators, it will be prudent in us to endeavour to counteract its baneful influence.

Mr. [Samuel] LIVERMORE [New Hampshire] now proposed to strike out the words "one hundred" and insert "two hundred."

Mr. [Theodore] SEDGWICK [Massachusetts] suspended his motion until this question was determined, whereupon it was put and lost, there being 22 in favor of, and 27 against it.

Mr. SEDGWICK's motion was then put and carried in the affirmative.

SAMUEL LIVERMORE [New Hampshire]

Wished to amend the clause of the report in such a manner as to prevent the power of congress from deciding the rate of increase; he thought the constitution had better fix it, and let it be gradual until it arrived at 200; after which, if that was the sense of the committee, it might be stationary, and liable to no other variation but that of being apportioned among the members of the union.

FISHER AMES [Massachusetts]

Suggested to the consideration of gentlemen, whether it would not be better to arrange the subject in such a way as to let the representation be proportioned to a ratio of 1 for 30,000 at the first census, and 1 for 40,000 at the second, so as to prevent a too rapid increase of the number of members; he did not make a motion of this nature, because he conceived it to be out of order, after the late decision of the committee, but it might be brought forward in the house, and he hoped would accommodate both sides.

ELBRIDGE GERRY [Massachusetts]

Wished that the gentleman last up, would pen down the idea he had just thrown out, he thought it very proper for the consideration of the house.

The question on the second proposition of the report as amended, was now put and carried, being 27 for, and 22 against it.

The next proposition in the report was as follows;

Art. I. Sect. 6. Between the words "United States" and "shall in all cases" strike out "they" and insert "but no law varying the compensation shall take effect, until an election of representatives shall have intervened. The members."

THEODORE SEDGWICK [Massachusetts]

Thought much inconvenience, and but very little good would result from this amendment, it might serve as a tool for designing men, they might reduce the wages very low, much lower than it was possible for any gentleman to serve without injury to his private affairs, in order to procure popularity at home, provided a diminution of pay was looked upon as a desirable thing; it might also be done in order to prevent men of shining and disinterested abilities, but of indigent circumstances, from rendering their fellow citizens those services they are well able to perform, and render a seat in this house less eligible than it ought to be.

JOHN VINING [Delaware]

Thought every future legislature would feel a degree of gratitude to the preceding one, which had performed so disagreeable a task for them. The committee who had made this a part of their report, had been guided by a single reason, but which appeared to them a sufficient one, there was, to say the least of it, a disagreeable sensation, occasioned by leaving it in the breast of any man to set a value upon his own work; it is true it was unavoidable in the present house, but it might, and ought to be avoided in future; he therefore hoped it would obtain without any difficulty.

ELBRIDGE GERRY [Massachusetts]

Would be in favor of this clause, if they could find means to secure an adequate representation, but he apprehended that would be considerably endangered, he should therefore be against it.

JAMES MADISON [Virginia]

Thought the representation would be as well secured under this clause as it would be if it was omitted; and as it was desired by a great number of the people of America, he should consent to it, though he was not convinced it was absolutely necessary.

THEODORE SEDGWICK [Massachusetts]

Remarked once more, that the proposition had two aspects which made it disagreeable to him, the one was to render a man popular to his constituents, the other to render the place ineligible to his competitor.

He thought there was very little danger of an abuse of the power of laying their own wages, gentlemen were generally more inclined to make them moderate than excessive.

The question being put on the proposition, it was carried in the affirmative, 27 for, and 20 against it.

The committee then rose and reported progress, and the house adjourned.

1. *Congressional Register*, II, 179–94. Two different lengthy reports of the debates were printed. A somewhat shorter version first appeared in the *New York Daily Advertiser* on 15 August, which was reprinted in fourteen newspapers by 3 September: Vt. (1), Mass. (3), Conn. (1), N.Y. (1), Pa. (5), Md. (2), Va. (1), and in the December 1789 issue of the *Philadelphia American Museum*. A longer version was first printed in the *Gazette of the United States* on 19 August, which was reprinted in fourteen newspapers by 17 September: N.H. (2), Mass. (2), Conn. (2), N.Y. (2), N.J. (2), Pa. (2), Va. (2). The *Gazette of the United States*, 15 August, printed a short summary with no more than two sentences in a paragraph. This account was reprinted in seventeen newspapers by 30 September: N.H. (2), Mass. (2), R.I. (3), Conn. (2), N.Y. (1), N.J. (1), Pa. (4), Md. (1), Va. (1). The *New York Daily Gazette*, 15 August, printed another short, two-paragraph summary that was reprinted in six newspapers by 31 August: Mass. (1), R.I. (1), Conn. (1), N.Y. (3).

2. For the amendments proposed by Virginia, New York, and North Carolina, see BoR, I, 251–56, 256–64, 264–71.

3. Massachusetts only had eight U.S. Representatives. Perhaps Ames was including the two Massachusetts senators in his total of ten.

4. On 17 September 1787, the last day of the Constitutional Convention, after the Constitution had been engrossed, Nathaniel Gorham of Massachusetts proposed changing the ratio of representation from “no more than one per 40,000” to “no more than one per 30,000.” Rufus King and Daniel Carroll supported the measure. When Washington, who was serving as president of the Convention, rose to call for the vote, he too endorsed the alteration, which was unanimously agreed to and the engrossed Constitution was changed (Farrand, II, 643–44).

House Debates, Saturday, 15 August 1789¹

The house resolved itself into a committee of the whole, and resumed the consideration of the report of the committee on the subject of amendments.

Mr. [Elias] BOUDINOT in the chair.

The fourth proposition under consideration being as follows:

Article 1. Sect. 9. Between paragraph 2 and 3 insert “no religion shall be established by law, nor shall the equal rights of conscience be infringed.”

PETER SILVESTER [New York]

Had some doubts of the propriety of the mode of expression used in this paragraph; he apprehended that it was liable to a construction different from what had been made by the committee, he feared it might be thought to have a tendency to abolish religion altogether.

JOHN VINING [Delaware]

Suggested the propriety of transposing the two members of the sentence.

ELBRIDGE GERRY [Massachusetts]

Said it would read better if it was, that no religious doctrine shall be established by law.

ROGER SHERMAN [Connecticut]

Thought the amendment altogether unnecessary, inasmuch as congress had no authority whatever delegated to them by the constitution, to make religious establishments, he would therefore move to have it struck out.

DANIEL CARROLL [Maryland]

As the rights of conscience are in their nature of peculiar delicacy, and will little bear the gentlest touch of the governmental hand; and as many sects have concurred in opinion that they are not well secured under the present constitution, he said he was much in favor of adopting the words; he thought it would tend more toward conciliating the minds of the people to the government than almost any other amendment he had heard proposed. He would not contend with gentlemen about the phraseology, his object was to secure the substance in such a manner as to satisfy the wishes of the honest part of the community.

JAMES MADISON [Virginia]

Said he apprehended the meaning of the words to be, that congress should not establish a religion, and enforce the legal observation of it by law, nor compel men to worship God in any manner contrary to their conscience; whether the words were necessary or not he did not mean to say, but they had been required by some of the state conventions, who seemed to entertain an opinion that under the clause of the constitution, which gave power to congress to make all laws necessary and proper to carry into execution the constitution, and the laws made under it, enabled them to make laws of such a nature as might infringe the rights of conscience, or establish a national religion, to prevent these effects he presumed the amendment was intended, and he thought it as well expressed as the nature of the language would admit.

BENJAMIN HUNTINGTON [Connecticut]

Said that he feared with the gentleman first up on this subject, that the words might be taken in such a latitude as to be extremely hurtful to the cause of religion: He understood the amendment to mean what had been expressed by the gentleman from Virginia, but others might

find it convenient to put another construction upon it. The ministers of their congregations to the eastward, were maintained by the contributions of those who belonged to their society; the expence of building meeting-houses was contributed in the same manner, these things were regulated by bye laws: If an action was brought before a federal court on any of these cases, the person who had neglected to perform his engagements could not be compelled to do it; for a support of ministers, or building of places of worship might be construed into a religious establishment.

By the charter of Rhode-Island, no religion could be established by law, he could give a history of the effects of such a regulation; indeed the people were now enjoying the blessed fruits of it: He hoped therefore the amendment would be made in such a way as to secure the rights of conscience, and a free exercise of the rights of religion, but not to patronize those who professed no religion at all.

JAMES MADISON [Virginia]

Thought, if the word national was inserted before religion, it would satisfy the minds of honorable gentlemen. He believed that the people feared one sect might obtain a pre-eminence, or two combine together and establish a religion to which they would compel others to conform; he thought if the word national was introduced, it would point the amendment directly to the object it was intended to prevent.

SAMUEL LIVERMORE [New Hampshire]

Was not satisfied with that amendment, but he did not wish them to dwell long on the subject; he thought it would be better if it was altered, and made to read in this manner, that congress shall make no laws touching religion, or infringing the rights of conscience.

ELBRIDGE GERRY [Massachusetts]

Did not like the term national, proposed by the gentleman from Virginia, and he hoped it would not be adopted by the house. It brought to his mind some observations that had taken place in the conventions at the time they were considering the present constitution; it had been insisted upon by those who were called antifederalists; that this form of government consolidated the union; the honorable gentleman's motion shews, that he considers it in the same light; those who were called antifederalists at that time complained that they had injustice done them by the title, because they were in favor of a federal government, and the others were in favor of a national one; the federalists were for ratifying the constitution as it stood, and the others not until amendments were made. Their names then ought not to have been distinguished by federalists and antifederalists, but rats and antirats.

JAMES MADISON [Virginia]

Withdrew his motion, but observed that the words “no national religion shall be established by law,” did not imply that the government was a national one; the question was then taken on mr. Livermore’s motion, and passed in the affirmative, 31 for, 20 against.

The next clause of the 4th proposition was taken into consideration, and was as follows: “The freedom of speech and of the press, and the right of the people peaceably to assemble and consult for their common good, and to apply to the government for redress of grievances shall not be infringed.”

THEODORE SEDGWICK [Massachusetts]

Submitted to those gentlemen who had contemplated the subject, what effect such an amendment as this would have; he feared it would tend to make them appear trifling in the eyes of their constituents; what, said he, shall we secure the freedom of speech, and think it necessary at the same time to allow the right of assembling? If people freely converse together, they must assemble for that purpose; it is a self-evident unalienable right which the people possess; it is certainly a thing that never would be called in question; it is derogatory to the dignity of the house to descend to such minutiae—he therefore moved to strike out “assemble and.”

EGBERT BENSON [New York]

The committee who framed this report, proceeded on the principle that these rights belonged to the people; they conceived them to be inherent, and all that they meant to provide against, was their being infringed by the government.

THEODORE SEDGWICK [Massachusetts]

Replied, that if the committee were governed by that general principle, they might have gone into a very lengthy enumeration of rights; they might have declared that a man should have a right to wear his hat if he pleased, that he might get up when he pleased, and go to bed when he thought proper; but he would ask the gentleman whether he thought it necessary to enter these trifles in a declaration of rights, under a government where none of them were intended to be infringed.

THOMAS TUDOR TUCKER [South Carolina]

Hoped the words would not be struck out, for he considered them of importance; beside, they were recommended by the states of Virginia and North-Carolina, though he noticed that the most material part proposed by those states was omitted, which was, a declaration that the people should have a right to instruct their representatives; he would

move to have those words inserted as soon as the motion for striking out was decided.

ELBRIDGE GERRY [Massachusetts]

Was also against the words being struck out, because he conceived it to be an essential right; it was inserted in the constitutions of several states, and though it had been abused in the year 1786 in Massachusetts,² yet that abuse ought not to operate as an argument against the use of it; the people ought to be secure in the peaceable enjoyment of this privilege, and that can only be done by making a declaration to that effect in the constitution.

JOHN PAGE [Virginia]

The gentleman from Massachusetts, (mr. Sedgwick) who has made this motion, objects to the clause; because the right is of so trivial a nature; he supposes it no more essential than whether a man has a right to wear his hat or not, but let me observe to him that such rights have been opposed, and a man has been obliged to pull off his hat when he appeared before the face of authority; people have also been prevented from assembling together on their lawful occasions, therefore it is well to guard against such stretches of authority, by inserting the privilege in the declaration of rights; if the people could be deprived of the power of assembling under any pretext whatsoever, they might be deprived of every other privilege contained in the clause.

JOHN VINING [Delaware]

Said if the thing was harmless, and it would tend to gratify the states that had proposed amendments, he should agree to it.

THOMAS HARTLEY [Pennsylvania]

Observed that it had been asserted in the convention of Pennsylvania, by the friends of the constitution, that all the rights and powers that were not given to the government, were retained by the states and the people thereof; this was also his own opinion, but as four or five states had required to be secured in those rights by an express declaration in the constitution, he was disposed to gratify them; he thought every thing that was not incompatible with the general good ought to be granted, if it would tend to obtain the confidence of the people in the government, and upon the whole, he thought these words were as necessary to be inserted in the declaration of rights as most in the clause.

ELBRIDGE GERRY [Massachusetts]

Said that his colleague contended for nothing, if he supposed that the people had a right to consult for the common good, because they could not consult unless they met for the purpose.

THEODORE SEDGWICK [Massachusetts]

Replied that if they were understood or implied in the word consult, they were utterly unnecessary, and upon that ground he moved to have them struck out.

The question was now put upon mr. Sedgwick's motion, and lost by a considerable majority.

Mr. [Thomas Tudor] TUCKER [South Carolina] then moved to insert these words, "to instruct their representatives."

THOMAS HARTLEY [Pennsylvania]

Wished the motion had not been made, for gentlemen acquainted with the circumstances of this country, and the history of the country from which we separated, differed exceedingly on this point; the members of the house of representatives, said he, are chosen for two years, the members of the senate for six.

According to the principles laid down in the constitution, it is presumable that the persons elected know the interests and the circumstances of their constituents, and being checked in their determinations by a division of the legislative power into two branches, there is little danger of error, at least it ought to be supposed that they have the confidence of the people during the period for which they are elected; and if, by misconduct, they forfeit it, their constituents have the power of leaving them out at the expiration of that time; thus they are answerable for the part they have taken in measures that may be contrary to the general wish.

Representation is the principle of our government; the people ought to have confidence in the honor and integrity of those they send forward to transact their business; their right to instruct them is a problematical subject. We have seen it attended with bad consequences, both in England and America. When the passions of the people were excited, instructions have been resorted to and obtained, to answer party purposes; and although the public opinion is generally respectable, yet at such moments it has been known to be often wrong; and happy is that government composed of men of firmness and wisdom to discover and resist the popular error.

If, in a small community, where the interests, habits, and manners are neither so numerous or diversified, instructions bind not:—What shall we say of instructions to this body; can it be supposed that the inhabitants of a single district in a state, are better informed with respect to the general interests of the union than a select body assembled from every part? Can it be supposed that a part will be more desirous of promoting the good of the whole than the whole will of the part? I apprehend, sir, that congress will be judges of proper measures, and

that instructions will never be resorted to but for party purposes, when they will generally contain the prejudices and acrimony of the party rather than the dictates of honest reason and sound policy.

In England this question has been considerably agitated, the representatives of some towns in parliament, have acknowledged, and submitted to the binding force of instructions, while the majority have thrown off the shackles with disdain. I would not have this precedent influence our decision; but let the doctrine be tried upon its own merits, and stand or fall as it shall be found to deserve.

It appears to my mind, that the principle of representation is distinct from an agency, which may require written instructions. The great end of meeting is to consult for the common good; but can the common good be discerned without the object is reflected and shewn in every light. A local or partial view does not necessarily enable any man to comprehend it clearly; this can only result from an inspection into the aggregate. Instructions viewed in this light, will be found to embarrass the best and wisest men. And were all the members to take their seats in order to obey instructions, and those instructions were as various as it is probable they would be, what possibility would there exist of so accommodating each to the other, as to produce any act whatever? Perhaps a majority of the whole might not be instructed to agree to any one point; and is it thus the people of the United States propose to form a more perfect union, provide for the common defence, and promote the general welfare?

Sir, I have known within my own time so many inconveniencies and real evils arise from adopting the popular opinions on the moment, that although I respect them as much as any man, I hope this government will particularly guard against them, at least that they will not bind themselves by a constitutional act, and by oath to submit to their influence, if they do, the great object which this government has been established to attain, will inevitably elude our grasp on the uncertain and veering winds of popular commotion.

JOHN PAGE [Virginia]

The gentleman from Pennsylvania tells you, that in England this principle is doubted; how far this is consonant with the nature of the government I will not pretend to say, but I am not astonished to find that the administrators of a monarchical government are unassailable by the weak voice of the people, but under a democracy whose great end is, to form a code of laws congenial with the public sentiment, the popular opinion ought to be collected and attended to. Our present object is, I presume, to secure to our constituents and to posterity these inesti-

mable rights. Our government is derived from the people, of consequence the people have a right to consult for the common good; but to what end will this be done, if they have not the power of instructing their representatives? Instruction and representation in a republic, appear to me to be inseparably connected; but was I the subject of a monarch, I should doubt whether the public good did not depend more upon the prince's will than the will of the people. I should dread a popular assembly consulting for the public good, because under its influence, commotions and tumults might arise that would shake the foundation of the monarch's throne, and make the empire tremble in expectation. The people of England have submitted the crown to the Hanover family, and have rejected the Stuarts, if instructions upon such a revolution were considered as binding, it is difficult to know what would have been the effects, it might be well therefore to have the doctrine exploded from that kingdom; but it will not be advanced as a substantial reason in favor of our treading in the same steps.

The honorable gentleman has said, that when once the people have chosen a representative, they must rely on his integrity and judgment during the period for which he is elected. I think, sir, that to doubt the authority of the people to instruct their representatives, will give them just cause to be alarmed for their fate: I look upon it as a dangerous doctrine, subversive of the great end for which the United States have confederated. Every friend of mankind, every well-wisher of his country will be desirous of obtaining the sense of the people on every occasion of magnitude; but how can this be so well expressed as in instructions to their representatives; I hope, therefore, that gentlemen will not oppose the insertion of it in this part of the report.

GEORGE CLYMER [Pennsylvania]

I hope the amendment will not be adopted, but if our constituents chuse to instruct us, that they may be left at liberty to do so; do gentlemen foresee the extent of these words? If they have a constitutional right to instruct us, it infers that we are bound by those instructions, and as we ought not to decide constitutional questions by implication, I presume we shall be called upon to go further, and expressly declare the members of the legislature bound by the instruction of their constituents; this is a most dangerous principle, utterly destructive of all ideas of an independent and deliberative body, which are essential requisites in the legislatures of free governments, they prevent men of abilities and experience from rendering those services to the community that are in their power, destroying the object contemplated by establishing an efficient general government, and rendering congress a mere passive machine.

ROGER SHERMAN [Connecticut]

It appears to me, that the words are calculated to mislead the people by conveying an idea, that they have a right to control the debates of the legislature; this cannot be admitted to be just, because it would destroy the object of their meeting. I think, when the people have chosen a representative, it is his duty to meet others from the different parts of the union, and consult, and agree with them to such acts as are for the general benefit of the whole community; if they were to be guided by instructions, there would be no use in deliberation, all that a man would have to do, would be to produce his instructions and lay them on the table, and let them speak for him, from hence I think it may be fairly inferred, that the right of the people to consult for the common good can go no further than to petition the legislature or apply for a redress of grievances. It is the duty of a good representative to enquire what measures are most likely to promote the general welfare, and after he has discovered them to give them his support; should his instructions therefore coincide with his ideas on any measure, they would be unnecessary; if they were contrary to the conviction of his own mind, he must be bound by every principle of justice to disregard them.

JAMES JACKSON [Georgia]

Was in favor of the right of the people, to assemble and consult for the common good, it had been used in this country as one of the best checks on the British legislature in their unjustifiable attempts to tax the colonies without their consent. America had no representatives in the British parliament, therefore they could instruct none, yet they exercised the power of consultation to a good effect. He begged gentlemen to consider the dangerous tendency of establishing such a doctrine, it would necessarily drive the house into a number of factions, there might be different instructions from every state, and the representation from each state would be a faction to support its own measures.

If we establish this as a right, we shall be bound by those instructions; now, I am willing to leave both the people and the representatives to their own discretion on this subject, let the people consult and give their opinion, let the representative judge of it, and if it is just, let him govern himself by it as a good member ought to do, but if it is otherwise, let him have it in his power to reject their advice.

What may be the consequence of binding a man to vote in all cases according to the will of others? He is to decide upon a constitutional point, and on this question his conscience is bound by the obligation of a solemn oath; you now involve him in a serious dilemma, if he votes

according to his conscience, he decides against his instructions, but in deciding against his instructions he commits a breach of the constitution, by infringing the prerogative of the people secured to them by this declaration. In short, it will give rise to such a variety of absurdities and inconsistencies as no prudent legislature would wish to involve themselves in.

ELBRIDGE GERRY [Massachusetts]

By the checks provided in the constitution, we have good grounds to believe that the very framers of it conceived that the government would be liable to mal-administration, and I presume that the gentlemen of this house do not mean to arrogate to themselves more perfection than human nature has as yet been found to be capable of; if they do not, they will admit an additional check against abuses which this, like every other government, is subject to. Instructions from the people will furnish this in a considerable degree.

It has been said that the amendment proposed by the honorable gentleman from South-Carolina, (mr. Tucker) determines this point, "that the people can bind their representatives to follow their instructions;" I do not conceive that this necessarily follows: I think the representative, notwithstanding the insertion of these words, would be at liberty to act as he pleased; if he declined to pursue such measures as he was directed to attain, the people would have a right to refuse him their suffrages at a future election.

Now, though I do not believe the amendment would bind the representatives to obey the instructions, yet I think the people have a right both to instruct and bind them. Do gentlemen conceive that on any occasion instructions would be so general as to proceed from all our constituents? If they do it is the sovereign will, for gentlemen will not contend that the sovereign will, presides in the legislature; the friends and patrons of this constitution have always declared that the sovereignty resides in the people, and that they do not part with it on any occasion; to say the sovereignty vests in the people, and that they have not a right to instruct and control their representatives, is absurd to the last degree; they must either give up their principle, or grant that the people have a right to exercise their sovereignty to control the whole government, as well as this branch of it; but the amendment does not carry the principle to such an extent, it only declares the right of the people to send instructions; the representative will, if he thinks proper, communicate his instructions to the house, but how far they shall operate on his conduct, he will judge for himself.

The honorable gentleman from Georgia (mr. Jackson) supposes that instructions will tend to generate factions in this house, but he did not

see how it could have that effect, any more than the freedom of debate had. If the representative entertains the same opinion with his constituents, he will decide with them in favor of the measure; if other gentlemen, who are not instructed on the point, are convinced by argument that the measure is proper, they will also vote with them, consequently the influence of debate and of instruction is the same.

The gentleman says further, that the people have the right of instructing their representatives; if so, why not declare it? Does he mean that it shall lay dormant and never be exercised? If so, it will be a right of no utility. But much good may result from a declaration in the constitution that they possess this privilege; the people will be encouraged to come forward with their instructions, which will form a fund of useful information for the legislature; we cannot, I apprehend, be too well informed of the true state, condition, and sentiment of our constituents, and perhaps this is the best mode in our power of obtaining information. I hope we shall never shut our ears against that information which is to be derived from the petitions and instructions of our constituents. I hope we shall never presume to think that all the wisdom of this country is concentrated within the walls of this house. Men, unambitious of distinctions from their fellow citizens, remain within their own domestic walk, unheard of and unseen, possessing all the advantages resulting from a watchful observance of public men and public measures, whose voice, if we would descend to listen to it, would give us knowledge superior to what could be acquired amidst the cares and bustles of a public life; let us then adopt the amendment, and encourage the dissident to enrich our stock of knowledge with the treasure of their remarks and observations.

JAMES MADISON [Virginia]

I think the committee acted prudently in omitting to insert these words in the report they have brought forward; if unfortunately the attempt of proposing amendments should prove abortive, it will not arise from the want of a disposition in the friends of the constitution to do what is right with respect to securing the rights and privileges of the people of America; but from the difficulties arising from discussing and proposing abstract propositions, of which the judgment may not be convinced. I venture to say that if we confine ourselves to an enumeration of simple acknowledged principles, the ratification will meet with but little difficulty. Amendments of a doubtful nature will have a tendency to prejudice the whole system; the proposition now suggested, partakes highly of this nature; it is doubted by many gentlemen here;

it has been objected to in intelligent publications throughout the union; it is doubted by many members of the state legislatures: In one sense this declaration is true, in many others it is certainly not true; in the sense in which it is true, we have asserted the right sufficiently in what we have done; if we mean nothing more than this, that the people have a right to express and communicate their sentiments and wishes, we have provided for it already. The right of freedom of speech is secured; the liberty of the press is expressly declared to be beyond the reach of this government; the people may therefore publicly address their representatives; may privately advise them, or declare their sentiments by petition to the whole body; in all these ways they may communicate their will. If gentlemen mean to go further, and to say that the people have a right to instruct their representatives in such a sense as that the delegates were obliged to conform to those instructions, the declaration is not true. Suppose they instruct a representative by his vote to violate the constitution, is he at liberty to obey such instructions? Suppose he is instructed to patronize certain measures, and from circumstances known to him, but not to his constituents, he is convinced that they will endanger the public good, is he obliged to sacrifice his own judgment to them? Is he absolutely bound to perform what he is instructed to do? Suppose he refuses, will his vote be the less valid, or the community be disengaged from that obedience which is due from the laws of the union? If his vote must inevitably have the same effect, what sort of a right is this in the constitution to instruct a representative who has a right to disregard the order, if he pleases? In this sense the right does not exist, in the other sense it does exist, and is provided largely for.

The honorable gentleman from Massachusetts, asks if the sovereignty is not with the people at large; does he infer that the people can, in detached bodies, contravene an act established by the whole people? My idea of the sovereignty of the people is, that the people can change the constitution if they please, but while the constitution exists, they must conform themselves to its dictates: But I do not believe that the inhabitants of any district can speak the voice of the people, so far from it, their ideas may contradict the sense of the whole people; hence the consequence that instructions are binding on the representative is of a doubtful, if not of a dangerous nature. I do not conceive, therefore, that it is necessary to agree to the proposition now made; so far as any real good is to arise from it, so far that real good is provided for; so far as it is of a doubtful nature, so far it obliges us to run the risk of losing the whole system.

WILLIAM LOUGHTON SMITH [South Carolina]

I am opposed to this motion, because I conceive it will operate as a partial inconvenience to the more distant states; if every member is to be bound by instructions how to vote, what are gentlemen from the extremities of the continent to do?

Members from the neighbouring states can obtain their instructions earlier than those from the southern ones, and I presume that particular instructions will be necessary for particular measures, of consequence we vote perhaps against instructions on their way to us, or we must decline voting at all; but what is the necessity of having a numerous representation; one member from a state can receive the instructions, and by his vote answer all the purposes of many, provided his vote is allowed to count for the proportion the state ought to send; in this way the business might be done at a less expence than having one or two hundred members in the house, which had been strongly contended for yesterday.

MICHAEL JENIFER STONE [Maryland]

I think the clause would change the government entirely, instead of being a government founded upon representation, it would be a democracy of singular properties.

I differ from the gentleman from Virginia (mr. Madison) if he thinks this clause would not bind the representative; in my opinion it would bind him effectually, and I venture to assert, without diffidence, that any law passed by the legislature, would be of no force, if a majority of the members of this house were instructed to the contrary, provided the amendment become[s] part of the constitution. What would follow from this? Instead of looking in the code of laws passed by congress, your judiciary would have to collect and examine the instructions from the various parts of the union. It follows very clearly from hence, that the government would be altered from a representative one to a democracy, wherein all laws are made immediately by the voice of the people.

This is a power not to be found in any part of the earth except among the Swiss Cantons; there the body of the people vote upon the laws, and give instructions to their delegates. But here we have a different form of government, the people at large are not authorised under it to vote upon the law, nor did I ever hear that any man required it. Why then are we called upon to propose amendments subversive of the principles of the constitution which were never desired.

Several members now called for the question, and the chairman being about to put the same.

ELBRIDGE GERRY [Massachusetts]

Gentlemen seem in a great hurry to get this business through, I think, mr. chairman, it requires a further discussion; for my part I had rather do less business and do it well, than precipitate measures before they are fully understood.

The honorable gentleman from Virginia (mr. Madison) stated, that if the proposed amendments are defeated, it will be by the delay attending the discussion of doubtful propositions; and he declares this to partake of that quality. It is natural, sir, for us to be fond of our own work, we do not like to see it disfigured by other hands. That honorable gentleman brought forward a string of propositions; among them was the clause now proposed to be amended, he is no doubt ready for the question and determined not to admit what we think an improvement. The gentlemen who were on the committee, and brought in the report, have considered the subject, and are also ripe for a decision. But other gentlemen may crave a like indulgence, is not the report before us for deliberation and discussion and to obtain the sense of the house upon it, and will not gentlemen allow us a day or two for these purposes, after they have forced us to proceed upon them at this time? I appeal to their candor and good sense on the occasion, and am sure not to be refused; and I must inform them now, that they may not be surprized hereafter, that I wish all the amendments, proposed by the respective states to be considered. Gentlemen say it is necessary to finish the subject, in order to reconcile a number of our fellow citizens to the government. If this is their principle, they ought to consider the wishes and intentions which the conventions have expressed for them; if they do this, they will find that they expect and wish for the declaration proposed by the honorable gentleman over the way (mr. Tucker) and of consequence they ought to agree to it, and why it, with others recommended in the same way, were not reported, I cannot pretend to say; the committee know this best themselves.

The honorable gentleman near me (mr. Stone) says, that the laws passed contrary to instruction will be nugatory. And other gentlemen ask, if their constituents instruct them to violate the constitution, whether they must do it? Sir, does not the constitution declare that all laws passed by congress are paramount to the laws and constitutions of the several states; if our decrees are of such force as to set aside the state laws and constitutions, certainly they may be repugnant to any instructions whatever without being injured thereby. But can we conceive that our constituents would be so absurd as to instruct us to violate our oath, and act directly contrary to the principles of a government ordained by themselves. We must look upon them to be absolutely aban-

doned and false to their own interests to suppose them capable of giving such instructions.

If this amendment is introduced into the constitution, I do not think we shall be much troubled with instructions; a knowledge of the right will operate to check a spirit that would render instruction necessary.

The honorable gentleman from Virginia asked, will not the affirmative of a member who votes repugnant to his instructions, bind the community as much as the votes of those who conform? There is no doubt, sir, but it will; but does this tend to shew that the constituent has no right to instruct? Surely not. I admit, sir, that instructions contrary to the constitution, ought not to bind, though the sovereignty resides in the people. The honorable gentleman acknowledges that the sovereignty vests there, if so, it may exercise its will in any case not inconsistent with a previous contract. The same honorable gentleman asks if we are to give the power to the people in detached bodies to contravene the government while it exists? Certainly not, nor does the proposed proposition extend to that point, it is only intended to open for them a convenient mode in which they may convey their sense to their agents. The gentleman therefore takes for granted what is inadmissible, that congress will always be doing illegal things, and make it necessary for the sovereign to declare its pleasure.

He says the people have a right to alter the constitution, but they have no right to oppose the government. If, while the government exists, they have no right to control it, it appears they have divested themselves of the sovereignty over the constitution. Therefore, our language, with our principles, must change, and we ought to say that the sovereignty existed in the people previous to the establishment of this government. This will be ground for alarm indeed if it is true, but I trust, sir, too much to the good sense of my fellow citizens ever to believe, that the doctrine will generally obtain in this country of freedom.

JOHN VINING [Delaware]

If, mr. chairman, there appears on one side too great an urgency to dispatch this business, there appears on the other an unnecessary delay and procrastination equally improper and unpardonable. I think this business has been already well considered by the house, and every gentleman in it; however, I am not for an unseemly expedition.

The gentleman last up, has insinuated a reflection upon the committee for not reporting all the amendments proposed by some of the state conventions. I can assign him a reason for this, the committee conceived some of them superfluous or dangerous, and found many of them so contradictory that it was impossible to make any thing of

them, and this is a circumstance the gentleman cannot pretend ignorance of.

Is it not inconsistent in that honorable member to complain of hurry, when he comes day after day reiterating the same train of arguments, and demanding the attention of this body by rising six or seven times on a question. I wish, sir, this subject discussed coolly and dispassionately, but I hope we shall have no more reiterations or tedious discussions; let gentlemen try to expedite public business, and their arguments will be conducted in a laconic and consistent manner. As to the business of instruction, I look upon it inconsistent with the general good. Suppose our constituents were to instruct us to make paper money, no gentleman pretends to say it would be unconstitutional, yet every honest mind must shudder at the thought. How can we then assert that instructions ought to bind us in all cases not contrary to the constitution?

SAMUEL LIVERMORE [New Hampshire]

Was not very anxious whether the words were inserted or not, but he had a great deal of doubt about the meaning of this whole amendment, it provides that the people may meet and consult for the common good; does this mean a part of the people in a township or district, or does it mean the representatives in the state legislatures? If it means the latter, there is no occasion for a provision that the legislature may instruct the members of this body.

In some states the representatives were chosen by districts, in this case, perhaps, the instructions may be considered as coming from the districts, but in other states, each representative was chosen by the whole people; in New-Hampshire it was the case there, the instructions of any particular place would have but little weight, but a legislative instruction would have considerable influence upon each representative. If, therefore, the words mean that the legislature may instruct, he presumed it would have considerable effect, though he did not believe it binding. Indeed he was inclined to pay a deference to any information, he might receive from any number of gentlemen, even by a private letter, but as for full binding force, no instructions contained that quality. They could not, nor ought not to have it, because different parties pursue different measures, and it might be expedient, nay absolutely necessary, to sacrifice them in mutual concessions.

The doctrine of instructions would hold better in England than here, because the boroughs and corporations might have an interest to pursue, totally immaterial to the rest of the kingdom, in this case it would be prudent to instruct their members in parliament.

ELBRIDGE GERRY [Massachusetts]

Wished the constitution amended without his having any hand in it, but if he must interfere he would do his duty. The honorable gentleman from Delaware, had given him an example of moderation and laconic and consistent debate that he meant to follow, and would just observe to the worthy gentleman last up, that several states had proposed the amendment, and among the rest New-Hampshire.

There was one remark which escaped him, when he was up before, the gentleman from Maryland (mr. Stone) had said that the amendment would change the nature of the government and make it a democracy; now he had always heard that it was a democracy, but perhaps he was misled, and the honorable gentleman was right in distinguishing it by some other appellation, perhaps an aristocracy was a term better adapted to it.

THEODORE SEDGWICK [Massachusetts]

Opposed the idea of the gentleman from New-Hampshire, that the state legislatures had the power of instructing the members of this house; he looked upon it as a subornation of the rights of the people to admit such an authority. We stand not here, said he, the representatives of the state legislatures as under the former congress, but as the representatives of the great body of the people.³ The sovereignty, the independence, and the rights of the states, are intended to be guarded by the senate; if we are to be viewed in any other light, the greatest security the people have for their rights and privileges is destroyed.

But with respect to instructions, it is well worthy of consideration how they are to be procured, it is not the opinion of an individual that is to control my conduct; I consider myself a representative of the whole union. An individual may give me information, but his sentiments may be in opposition to the sense of the majority of the people: If instructions are to be of any efficacy, they must speak the sense of the majority of the people, at least of a state. In a state so large as Massachusetts it will behoove gentlemen to consider how the sense of the majority of the freemen is to be obtained and communicated. Let us take care to avoid the insertion of crude and indigested propositions, more likely to produce acrimony, than that spirit of harmony which we ought to cultivate.

SAMUEL LIVERMORE [New Hampshire]

Said that he did not understand the honorable gentleman, or was not understood by him; he did not presume peremptorily to say what degree of influence the legislative instructions would have on a representative, he knew it was not the thing in contemplation here, and

what he had said respected only the influence it would have on his private judgments.

FISHER AMES [Massachusetts]

Said there would be a very great inconvenience attending the establishment of the doctrine contended for by his colleague, those states who had selected their members by districts would have no right to give them instructions, consequently the members ought to withdraw, in which case the house might be reduced below a majority, and not be able, according to the constitution, to do any business at all.

According to the doctrine of the gentleman from New-Hampshire, one part of the government would be annihilated, for of what avail is it that the people have the appointment of a representative, if he is to pay obedience to the dictates of another body.

Several members now rose and called for the question.

JOHN PAGE [Virginia]

Was sorry to see gentlemen so impatient, the more so as he saw there was very little attention paid to any thing that was said, but he would express his sentiments if he was only heard by the chair;—he discovered clearly, notwithstanding what had been observed by the most ingenious supporters of the opposition, that there was an absolute necessity for adopting the amendment, it was strictly compatible with the spirit and the nature of the government, all power vests in the people of the United States, it is therefore a government of the people, a democracy; if it was consistent with the peace and tranquillity of the inhabitants, every freeman would have a right to come and give his vote upon the law, but inasmuch as this cannot be done, by reason of the extent of territory, and some other causes, the people have agreed that their representatives shall exercise a part of their authority; to pretend to refuse them the power of instructing their agents, appears to me to deny them a right. One gentleman asks how the instructions are to be collected. many parts of this country have been in the practice of instructing their representatives; they found no difficulty in communicating their sense: Another gentleman asks if they were to instruct us to make paper money, what we would do? I would tell them, said he, it was unconstitutional, alter that, and we will consider on the point; unless laws are made satisfactory to the people, they will lose their support, they will be abused or done away; this tends to destroy the efficiency of the government.

It is the sense of several of the conventions that this amendment should take place; I think it my duty to support it, and fear it will spread an alarm among our constituents if we decline to do it.

JEREMIAH WADSWORTH [Connecticut]

Instructions have frequently been given to the representatives throughout the United States, but the people did not claim as a right that they should have any obligation upon the representative; it is not right that they should: In troublesome times designing men have drawn the people to instruct the representatives to their harm; the representatives have, on such occasions, refused to comply with their instructions. I have known, myself, that they have been disobeyed, and yet the representative was not brought to account for it, on the contrary, he was carressed and re-elected, while those who have obeyed them, contrary to their private sentiments, have ever after been despised for it: Now, if the people considered it an inherent right in them to instruct their representatives, they would have undoubtedly punished the violation of them. I have no idea of instructions, unless they are obeyed; a discretionary power is incompatible with them.

The honorable gentleman who was up last says, if he was instructed to make paper money, he would tell his constituents it was unconstitutional; I believe that is not the case, for this body would have a right to make paper money, but if my constituents were to instruct me to vote for such a measure, I would disobey them let the consequence be what it would.

THOMAS SUMTER [South Carolina]

The honorable gentlemen who are opposed to the motion of my colleague, do not treat it fairly; they suppose that it is meant to bind the representative to conform to his instructions, the mover of this question, I presume to say, has no such thing in idea; that they shall notice them and obey them as far as is consistent and proper, may be very just; perhaps they ought to produce them to the house, and let them have as much influence as they deserve; but nothing further, I believe, is contended for.

I rose on this occasion, not so much to make any observations upon the point immediately under consideration, as to beg the committee to consider the consequences that may result from an undue precipitancy and hurry; nothing can distress me more than to be obliged to notice what I conceive to be somewhat improper in the conduct of so respectable a body.

Gentlemen will reflect how difficult it is to remove error when once the passions are engaged in the discussion, temper and coolness are necessary to complete what must be the work of time; it cannot be denied but what the present constitution is imperfect, we must therefore take time to improve it. If gentlemen are pressed for want of time,

and are disposed to adjourn the sessions of congress at a very early period, we had better drop the subject of amendments, and leave it until we have more leisure to consider and do the business effectually; for my part I would rather sit till this day twelve month, than have this all-important subject inconsiderately passed over; the people have already complained that the adoption of the constitution was done in too hasty a manner, what will they say of us if we press the amendments with so much haste.

AEDANUS BURKE [South Carolina]

It has been asserted, mr. chairman, that the people of America do not require this right; I beg leave to ask the gentleman from Massachusetts, whether the constitution of that state does not recognize that right, and the gentlemen from Maryland, whether their declaration of rights does not expressly secure it to the inhabitants of that state? These circumstances, added to what has been proposed by the state conventions as amendments to this constitution, pretty plainly declares the sense of the people to be in favor of securing to themselves and to their posterity, a right of this nature.

JOSHUA SENEY [Maryland]

Said that the declaration of rights prefixed to the constitution of Maryland, secured to every man a right of petitioning the legislature for a redress of grievances, in a peaceable and orderly manner.

AEDANUS BURKE [South Carolina]

I am not positive with respect to the particular expression in the declaration of rights of the people of Maryland, but the constitutions of Massachusetts, Pennsylvania and North-Carolina, all of them recognize, in express terms, the right of the people to give instruction to their representatives.—I do not mean to insist particularly upon this amendment, but I am very well satisfied that those that are reported and likely to be adopted by this house, are very far from giving satisfaction to our constituents; they are not those solid and substantial amendments which the people expect; they are little better than whipsyllabub, frothy and full of wind, formed only to please the palate, or they are like a tub thrown out to a whale, to secure the freight of the ship and its peaceable voyage; in my judgment they will not be gratified by the mode we have pursued in bringing them forward; there was a committee of eleven appointed, and out of them I think there were five who were members of the convention that formed the constitution,⁴ such gentlemen having already given their opinion with respect to the perfection of the work, may be thought improper agents to bring

forward amendments; upon the whole, I think it will be found that we have done nothing but lose our time, and that it will be better to drop the subject now, and proceed to the organization of the government.

THOMAS SINNICKSON [New Jersey]

Enquired of mr. chairman, what was the question before the committee, for really debate had become so desultory, as to induce him to think it was lost sight of altogether.

JOHN LAURANCE [New York]

Was averse to entering on the business at first, but since they had proceeded so far, he hoped they would finish it; he said, if gentlemen would confine themselves to the question, when they were speaking, that the business might be done in a more agreeable manner; he said he was against the amendment proposed by the gentleman from S. Carolina (mr. Tucker,) because every member on this floor ought to consider himself the representative of the whole union, and not of the particular district which had chosen him, as their decisions were to bind every individual of the confederated states, it was wrong to be guided by the voice of a single district, whose interests might happen to clash with that of the general good, and unless instructions were to be considered as binding, they were altogether superfluous.

JAMES MADISON [Virginia]

Was unwilling to take up any more of the time of the committee, but on the other hand, he was not willing to be silent after the charges that had been brought against the committee, and the gentleman who introduced the amendments, by the honorable members on each side of him, (mr. Sumter and mr. Burke.) Those gentlemen say that we are precipitating the business, and insinuate that we are not acting with candor; I appeal to the gentlemen who have heard the voice of their country, to those who have attended the debates of the state conventions, whether the amendments now proposed, are not those most strenuously required by the opponents to the constitution? It was wished that some security should be given for those great and essential rights which they had been taught to believe were in danger. I concurred, in the convention of Virginia, with those gentlemen, so far as to agree to a declaration of those rights which corresponded with my own judgment, and the other alterations which I had the honor to bring forward before the present congress. I appeal to the gentlemen on this floor who are desirous of amending the constitution, whether these proposed are not compatible with what are required by our constituents; have not

the people been told that the rights of conscience, the freedom of speech, the liberty of the press, and trial by jury, were in jeopardy; that they ought not to adopt the constitution until those important rights were secured to them.

But while I approve of these amendments, I should oppose the consideration at this time, of such as are likely to change the principles of the government, or that are of a doubtful nature; because I apprehend there is little prospect of obtaining the consent of two-thirds of both houses of congress, and three-fourths of the state legislatures, to ratify propositions of this kind; therefore, as a friend to what is attainable, I would limit it to the plain, simple, and important security that has been required. If I was inclined to make no alteration in the constitution I would bring forward such amendments as were of a dubious cast, in order to have the whole rejected.

AEDANUS BURKE [South Carolina]

Never entertained an idea of charging gentlemen with the want of candor; but he would appeal to any man of sense and candor, whether the amendments contained in the report were any thing like the amendments required by the states of New-York, Virginia, New-Hampshire and Carolina, and having these amendments in his hand, he turned to them to shew the difference, concluding that all the important amendments were omitted in the report.

WILLIAM LOUGHTON SMITH [South Carolina]

Understood his colleague, who has just sat down, to have asserted that the amendment under consideration was contained in the constitution of the state of South-Carolina, this was not the fact.

AEDANUS BURKE [South Carolina]

Said he mentioned the state of North-Carolina, and there it was inserted in express terms.

The question was now called for from several parts of the house, but a desultory conversation took place before the question was put; at length the call becoming very general, it was stated from the chair, and determined in the negative, 10 rising in favor of it, and 41 against it.

The question was now taken on the 2d clause of the 4th proposition as originally reported and agreed to.

FISHER AMES [Massachusetts]

Moved the committee to rise and report progress, which being agreed to;

Mr. Speaker having resumed the chair,

FISHER AMES [Massachusetts]

Moved to discharge the committee from any further proceeding, he was led to make the motion from two considerations; First, That as the committee were not restrained in their discussions, a great deal of time was consumed in unnecessary debate; And second, That as the constitution required two thirds of the house to acquiesce in amendments, the decisions of the committee, by a simple majority, might be set aside for want of the constitutional number to support them in the house. He further observed that it might have an evil influence, if alterations agreed to in committee were not adopted by the house.

WILLIAM LOUGHTON SMITH [South Carolina]

Mr. Smith (of S.C.) was in favor of the motion.

ELBRIDGE GERRY [Massachusetts]

Thought that the object of the motion was to prevent such a thorough discussion of the business as the nature of it demanded. He called upon gentlemen to recollect the consistency of his honorable colleague, who had proposed to refer the subject to a select committee, lest an open and full examination should lay bare the muscles and sinews of the constitution; he had succeeded on that occasion, and the business was put into the hands of a select committee, he now proposes to curtail the debate, because gentlemen will not swallow the propositions as they stand, when their judgment and their duty requires to have them improved. Will this house, said he, agree that an important subject like this shall have less consideration than the most trifling business yet come before us? I hope they will not; if they are tired of it, let it be postponed until another session, when it can be attended with leisure and good temper. Gentlemen now feel the weather warm, and the subject is warm, no wonder it produces some degree of heat; perhaps as our next will be a winter session, we may go thro' more coolly and dispassionately.

THEODORE SEDGWICK [Massachusetts]

Seconded Mr. Ames's motion, thinking there was little probability of getting through with the business, if gentlemen were disposed to offer motions, and dwell long upon them in committee, when there was no likelihood they would meet the approbation of two-thirds of both houses, and three-fourths of the state legislatures.

MR. GERRY moved to call the yeas and noes on the motion.

JOHN PAGE [Virginia]

Begged gentlemen to consider, that the motion tended to deprive the members of that freedom of debate which they had heretofore

been indulged in, and prevented the speaker from giving his sentiments; he was sorry to see this hurry, and hoped the subject would be fairly treated, otherwise the people might think they were unjustly dealt by. They would have a right to suppose with the honorable gentleman from Carolina (mr. Burke) that we meant nothing more than to throw out a tub to the whale.

AEDANUS BURKE [South Carolina]

Would oppose the motion, and join in calling the yeas and nays, because its object must be to preclude debate. He was certain the subject was so variegated, and at the same time so important, that it could not be thoroughly discussed in any other manner than in a committee of the whole; and unless it was discussed in a satisfactory manner he apprehended it would occasion a great deal of mischief. He said the people knew, and were sensible that in ratifying the present constitution, they parted with their liberties, but it was under a hope that they would get them back again: Whether this was to be the case or not, he left it to time to discover, but the spirit which seemed now to prevail in the house was no favorable omen. He begged gentlemen to treat the subject with fairness and candor, and not depart from their usual mode of doing business.

WILLIAM LOUGHTON SMITH [South Carolina]

Had said he would support the motion under an impression, that it was useless to carry a measure through the committee by a small majority, which was unlikely to meet the approbation of two-thirds of the house; but as gentlemen appeared so desirous of pursuing the common routine of doing business, he would withdraw his support.

THOMAS TUDOR TUCKER [South Carolina]

Was in hopes the honorable mover would have seen the impropriety of his motion, and have withdrawn it, but as he had not, he would presume to ask him upon what principle it was founded. Is it to precipitate the business, and prevent an investigation; or is it because the committee have spent some time on it, and made no progress? He thought the latter was not the case, because the committee had proceeded as far in it as could reasonably be expected for the time. The gentleman, says he, is apprehensive it may do harm to have propositions agreed to in committee, and rejected by the house; certainly there is no foundation for this apprehension, or the clause in the constitution, requiring the consent of two thirds [i.e., three-fourths] of the legislature to amendments, is formed on wrong principles. If the propositions are reasonable in themselves, they ought to be admitted, but

if they are improper, they ought to be rejected; we would not presume to prevent our constituents from contemplating the subject in their own mind.

Is this haste produced by a desire to adjourn? He was as desirous of adjourning as any member; but he would not sacrifice the duty he owed the public to his own private convenience.

SAMUEL LIVERMORE [New Hampshire]

Hoped the gentleman would withdraw his motion, because it would have a disagreeable aspect to leave the business in the unfinished state it now stood; he thought it had better been altogether let alone.

FISHER AMES [Massachusetts]

Withdrew his motion, and laid another on the table requiring two thirds of the committee to carry a question, and after some desultory conversation the house adjourned.

1. *Congressional Register*, II, 194–219. Two long versions of the debates were printed in the New York *Daily Advertiser*, 17 August, and in the *Gazette of the United States*, 19 August. The *Advertiser* version was reprinted in twenty-two newspapers by 16 September: Vt. (1), N.H. (2), Mass. (4), R.I. (2), Conn. (2), N.Y. (2) Pa. (5), Md. (2), Va. (2), and in the December 1789 issue of the Philadelphia *American Museum*. The *Gazette of the United States* version was reprinted sixteen times by 30 September: N.H. (1), Mass. (2), R.I. (1), Conn. (3), N.Y. (2), N.J. (2), Pa. (3), Va. (2).

2. A reference to Shays's Rebellion.

3. The Articles of Confederation provided that delegates to Congress "shall be annually appointed in such manner as the legislature of each state shall direct." Eleven states provided for the election by the state legislatures. Only Connecticut and Rhode Island provided for the election of congressional delegates directly by the people. The Articles of Confederation also provided that state legislatures retained the power to recall delegates to Congress presumably if a delegate violated instructions (CDR, 87).

4. Abraham Baldwin, George Clymer, Nicholas Gilman, James Madison, and Roger Sherman were on the Committee of Eleven and had served in the Constitutional Convention.

House Debates, Monday, 17 August 1789¹

The house went into a committee of the whole, on the subject of amendments. The 3d clause of the 4th proposition in the report was taken into consideration, being as follows; "A well regulated militia, composed of the body of the people, being the best security of a free state; the right of the people to keep and bear arms shall not be infringed, but no person, religiously scrupulous, shall be compelled to bear arms."

ELBRIDGE GERRY [Massachusetts]

This declaration of rights, I take it, is intended to secure the people against the mal-administration of the government; if we could suppose

that in all cases the rights of the people would be attended to, the occasion for guards of this kind would be removed. Now I am apprehensive, sir, that this clause would give an opportunity to the people in power to destroy the constitution itself. They can declare who are those religiously scrupulous, and prevent them from bearing arms.

What, sir, is the use of a militia? It is to prevent the establishment of a standing army, the bane of liberty. Now it must be evident, that under this provision, together with their other powers, congress could take such measures with respect to a militia, as make a standing army necessary. Whenever government mean to invade the rights and liberties of the people, they always attempt to destroy the militia, in order to raise an army upon their ruins. This was actually done by Great Britain at the commencement of the late revolution. They used every means in their power to prevent the establishment of an effective militia to the eastward. The assembly of Massachusetts, seeing the rapid progress that administration were making, to divest them of their inherent privileges, endeavored to counteract them by the organization of the militia, but they were always defeated by the influence of the crown.

JOSHUA SENEY [Maryland]

Wished to know what question there was before the committee, in order to ascertain the point upon which the gentleman was speaking?

ELBRIDGE GERRY [Massachusetts]

Replied, that he meant to make a motion, as he disapproved of the words as they stood. He then proceeded, No attempts that they made, were successful, until they engaged in the struggle which emancipated them at once from their thralldom. Now, if we give a discretionary power to exclude those from militia duty who have religious scruples, we may as well make no provision on this head; for this reason he wished the words to be altered so as to be confined to persons belonging to a religious sect, scrupulous of bearing arms.

JAMES JACKSON [Georgia]

Did not expect that all the people of the United States would turn Quakers or Moravians, consequently one part would have to defend the other, in case of invasion, now this, in his opinion, was unjust, unless the constitution secured an equivalent, for this reason he moved to amend the clause, by inserting at the end of it "upon paying an equivalent to be established by law."

WILLIAM LOUGHTON SMITH [South Carolina]

Enquired what were the words used by the conventions respecting this amendment; if the gentleman would conform to what was pro-

posed by Virginia and Carolina, he would second him: He thought they were to be excused provided they found a substitute.

JAMES JACKSON [Georgia]

Was willing to accommodate; he thought the expression was, “No one, religiously scrupulous of bearing arms, shall be compelled to render military service in person, upon paying an equivalent.”

ROGER SHERMAN [Connecticut]

Conceived it difficult to modify the clause and make it better. It is well-known that those who are religiously scrupulous of bearing arms, are equally scrupulous of getting substitutes or paying an equivalent; many of them would rather die than do either one or the other—but he did not see an absolute necessity for a clause of this kind. We do not live under an arbitrary government, said he, and the states respectively will have the government of the militia, unless when called into actual service; beside, it would not do to alter it so as to exclude the whole of any sect, because there are men amongst the quakers who will turn out, notwithstanding the religious principles of the society, and defend the cause of their country. Certainly it will be improper to prevent the exercise of such favorable dispositions, at least whilst it is the practice of nations to determine their contests by the slaughter of their citizens and subjects.

JOHN VINING [Delaware]

Hoped the clause would be suffered to remain as it stood, because he saw no use in it if it was amended so as to compel a man to find a substitute, which, with respect to the government, was the same as if the person himself turned out to fight.

MICHAEL JENIFER STONE [Maryland]

Enquired what the words “Religiously scrupulous” had reference to, was it of bearing arms? If it was, it ought so to be expressed.

EGBERT BENSON [New York]

Moved to have the words “But no person religiously scrupulous shall be compelled to bear arms” struck out. He would always leave it to the benevolence of the legislature—for, modify it, said he, as you please, it will be impossible to express it in such a manner as to clear it from ambiguity. No man can claim this indulgence of right. It may be a religious persuasion, but it is no natural right, and therefore ought to be left to the discretion of the government. If this stands part of the constitution, it will be a question before the judiciary, on every regulation you make with respect to the organization of the militia, whether

it comports with this declaration or not? It is extremely injudicious to intermix matters of doubt with fundamentals.

I have no reason to believe but the legislature will always possess humanity enough to indulge this class of citizens in a matter they are so desirous of, but they ought to be left to their discretion.

The motion for striking out the whole clause being seconded, was put, and decided in the negative, 22 members voting for it, and 24 against it.

ELBRIDGE GERRY [Massachusetts]

Objected to the first part of the clause, on account of the uncertainty with which it is expressed: A well-regulated militia being the best security of a free state, admitted an idea that a standing army was a secondary one. It ought to read "a well regulated militia, trained to arms," in which case it would become the duty of the government to provide this security, and furnish a greater certainty of its being done.

Mr. GERRY's motion not being seconded, the question was put on the clause as reported, which being adopted,

AEDANUS BURKE [South Carolina]

Proposed to add to the clause just agreed to, an amendment to the following effect: "A standing army of regular troops in time of peace, is dangerous to public liberty, and such shall not be raised or kept up in time of peace but from necessity, and for the security of the people, nor then without the consent of two-thirds of the members present of both houses, and in all cases the military shall be subordinate to the civil authority." This being seconded,

JOHN VINING [Delaware]

Asked whether this was to be considered as an addition to the last clause, or an amendment by itself? If the former, he would remind the gentleman the clause was decided; if the latter, it was improper to introduce new matter, as the house had referred the report specially to the committee of the whole.

AEDANUS BURKE [South Carolina]

Fearing that what with being trammelled in rules, and the apparent disposition of the committee, he should not be able to get them to consider any amendment; he submitted to such proceeding because he could not help himself.

THOMAS HARTLEY [Pennsylvania]

Thought the amendment in order, and was ready to give his opinion of it. He hoped the people of America would always be satisfied with

having a majority to govern. He never wished to see two-thirds or three-fourths required, because it might put it in the power of a small minority to govern the whole union.

The question on Mr. Burke's motion was put, and lost by a majority of 13.

The 4th clause of the 4th proposition was taken up as follows: "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."

THOMAS SUMTER [South Carolina]

Hoped soldiers would never be quartered on the inhabitants, either in time of peace or war, without the consent of the owner: It was a burthen, and very oppressive, even in cases where the owner gave his consent; but where this was wanting, it would be a hardship indeed: Their property would lie at the mercy of men irritated by a refusal, and well disposed to destroy the peace of the family.

He moved to strike out all the words from the clause but "No soldier shall be quartered in any house without the consent of the owner."

ROGER SHERMAN [Connecticut]

Observed that it was absolutely necessary that marching troops should have quarters, whether in time of peace or war, and that it ought not to be put in the power of an individual to obstruct the public service; if quarters were not to be obtained in public barracks, they must be procured elsewhere. In England, where they paid considerable attention to private rights, they billeted the troops upon the keepers of public houses, and upon private houses also, with the consent of the magistracy.

Mr. SUMTER's motion being put was lost by a majority of 16.

ELBRIDGE GERRY [Massachusetts]

Moved to insert between "but" and "in a manner" the words "by a civil magistrate" observing that there was no part of the union but what they could have access to such authority.

THOMAS HARTLEY [Pennsylvania]

Said those things ought to be entrusted to the legislature; that cases might arise where the public safety would be endangered by putting it in the power of one person to keep a division of troops standing in the inclemency of the weather for many hours, therefore he was against inserting the words.

Mr. GERRY said either his amendment was essential, or the whole clause was unnecessary.

On putting the question 13 rose in favor of the motion, 35 against it, and then the clause was carried as reported.

The 5th clause of the 4th proposition was taken up, viz. “no person shall be subject, except in case of impeachment, to more than one trial or one punishment for the same offence, nor shall be compelled 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.”

EGBERT BENSON [New York]

Thought the committee could not agree to the amendment in the manner it stood, because its meaning, appeared rather doubtful, it says that no person shall be tried more than once for the same offence, this is contrary to the right heretofore established, he presumed it was intended to express what was secured by our former constitution,² that no man’s life should be more than once put in jeopardy for the same offence, yet it was well known, that they were intitled to more than one trial; the humane intention of the clause was to prevent more than one punishment, for which reason he would move to amend it by striking out the words “one trial or.”

ROGER SHERMAN [Connecticut]

Approved of the motion, he said, that as the clause now stood, a person found guilty could not arrest the judgment, and obtain a second trial in his own favor, he thought that the courts of justice would never think of trying and punishing twice for the same offence, if the person was acquitted on the first trial, he ought not to be tried a second time, but if he was convicted on the first, and any thing should appear to set the judgment aside, he was intitled to a second, which was certainly favorable to him. Now the clause as it stands would deprive him of this advantage.

SAMUEL LIVERMORE [New Hampshire]

Thought the clause very essential, it was declaratory of the law as it now stood, striking out the words, would seem as if they meant to change the law by implication, and expose a man to the danger of more than one trial; many persons may be brought to trial for crimes they are guilty of, but for want of evidence may be acquitted; in such cases it is the universal practice in Great-Britain, and in this country, that persons shall not be brought to a second trial for the same offence, therefore the clause is proper as it stands.

Mr. [THEODORE] SEDGWICK [Massachusetts] thought, instead of securing the liberty of the subject, it would be abridging the privileges of those who were prosecuted.

The question on Mr. Benson's motion being put, was lost by a considerable majority.

Mr. [GEORGE] PARTRIDGE [Massachusetts] moved to insert after "same offence," the words, "by any law of the United States;" this amendment was lost also.

JOHN LAURANCE [New York]

Said this clause contained a general declaration, in some degree contrary to laws passed, he alluded to that part where a person shall not be compelled to give evidence against himself; he thought it ought to be confined to criminal cases, and moved an amendment for that purpose, which amendment being adopted, the clause as amended was unanimously agreed to by the committee, who then proceeded to the 6th clause of the 4th proposition in these words, "excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

Mr. [WILLIAM LOUGHTON] SMITH (of S.C.) objected to the words "nor cruel and unusual punishments," the import of them being too indefinite.

SAMUEL LIVERMORE [New Hampshire]

The clause seems to express a great deal of humanity, on which account I have no objection to it; but as it seems to have no meaning in it, I do not think it necessary. What is meant by the terms excessive bail? Who are to be the judges? What is understood by excessive fines? It lays with the court to determine. No cruel and unusual punishment is to be inflicted; it is sometimes necessary to hang a man, villains often deserve whipping, and perhaps having their ears cut off; but are we in future to be prevented from inflicting these punishments because they are cruel? If a more lenient mode of correcting vice and deterring others from the commission of it could be invented, it would be very prudent in the legislature to adopt it, but until we have some security that this will be done, we ought not to be restrained from making necessary laws by any declaration of this kind.

The question was put on the clause, and it was agreed to by a considerable majority.

The committee went on to the consideration of the 7th clause of the 4th proposition, being as follows; "the right of the people to be secured in their persons, houses, papers and effects, shall not be violated by

warrants issuing without probable cause, supported by oath or affirmation, and not particularly describing the place to be searched, and the persons or things to be seized.”

ELBRIDGE GERRY [Massachusetts]

Said he presumed there was a mistake in the wording of this clause, it ought to be “the right of the people to be secure in their persons, houses, papers and effects, against unreasonable seizures and searches,” and therefore moved that amendment.

This was adopted by the committee.

EGBERT BENSON [New York]

Objected to the words “by warrants issuing,” this declaratory provision was good as far as it went, but he thought it was not sufficient, he therefore proposed to alter it so as to read “and no warrant shall issue.”

The question was put on this motion, and lost by a considerable majority.

Mr. [SAMUEL] LIVERMORE [New Hampshire] objected to the words “and not” between “affirmative and particularly.” He moved to strike them out, in order to make it an affirmative proposition.

But the motion passed in the negative.

The clause as amended being now agreed to,

The 8th clause of the 4th proposition was taken up, which was “The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.”

Mr. [ELBRIDGE] GERRY [Massachusetts] said it ought to be “deny or impair,” for the word “disparage” was not of plain import; he therefore moved to make that alteration, but not being seconded, the question was taken on the clause, and it passed in the affirmative.

The committee then proceeded to the 5th proposition.

Art. 1. sect. 10. between the 1st and 2d paragraph insert “no state shall infringe the equal rights of conscience, nor the freedom of speech, or of the press, nor of the right of trial by jury in criminal cases.”

THOMAS TUDOR TUCKER [South Carolina]

This is offered, I presume, as an amendment to the constitution of the United States, but it goes only to the alteration of the constitutions of particular states; it will be much better, I apprehend, to leave the state governments to themselves, and not to interfere with them more than we already do, and that is thought by many to be rather too much; I therefore move, sir, to strike out these words.

JAMES MADISON [Virginia]

Conceived this to be the most valuable amendment on the whole list; if there was any reason to restrain the government of the United States from infringing upon these essential rights, it was equally necessary that they should be secured against the state governments; he thought that if they provided against the one, it was as necessary to provide against the other, and was satisfied that it would be equally grateful to the people.

Mr. [SAMUEL] LIVERMORE [New Hampshire] had no great objection to the sentiment, but he thought it not well expressed. He wished to make it an affirmative proposition; “the equal rights of conscience, the freedom of speech, or of the press, and the right of trial by jury in criminal cases shall not be infringed by any state.”

This transposition being agreed to, and Mr. Tucker’s motion being rejected, the clause was adopted.

The 6th proposition, art. 3. sect. 2. add to the 2d paragraph “But no appeal to such court shall be allowed, where the value in controversy shall not amount to one thousand dollars; nor shall any fact, triable by a jury according to the course of the common law, be otherwise re-examinable than according to the rules of common law.”

EGBERT BENSON [New York]

Moved to strike out the first part of the paragraph respecting the limitation of appeals, because the question in controversy might be an important one, though the action was not to the amount of a thousand dollars.

JAMES MADISON [Virginia]

If the gentleman will propose any restriction to answer his purpose, and for avoiding the inconvenience he apprehends, I am willing to agree to it, but it will be improper to strike out the clause without a substitute.

There is little danger that any court in the United States will admit an appeal where the matter in dispute does not amount to a thousand dollars, but as the possibility of such an event has excited in the minds of many citizens, the greatest apprehension that persons of opulence would carry a cause from the extremities of the union to the supreme court, and therefore prevent the due administration of justice, it ought to be guarded against.

Mr. [SAMUEL] LIVERMORE [New Hampshire] thought the clause was objectionable, because it comprehended nothing more than the value.

THEODORE SEDGWICK [Massachusetts]

Moved to insert 3,000 dollars, in lieu of 1,000, but on the question, this motion was rejected, and the proposition accepted in its original form.

The committee then proceeded to consider the 7th proposition in the words following;

Art. 3, Sect. 2. Strike out the whole of the 3d paragraph, and insert, "In all criminal prosecutions, the accused, shall enjoy the right to a speedy and public trial, 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 defence."

AEDANUS BURKE [South Carolina]

Moved to amend this proposition in such a manner, as to leave it in the power of the accused to put off their trial to the next session, provided he made appear to the court, that the evidence of the witnesses, for whom process was granted, but not served, was material to his defence.

THOMAS HARTLEY [Pennsylvania]

Said that in securing him the right of compulsory process, the government did all it could, the remainder must lay in the discretion of the court.

Mr. [WILLIAM LOUGHTON] SMITH (of S.C.) thought the regulation would come properly in, as part of the judicial system.

The question on Mr. Burke's motion was taken, and lost. Affirmative 9, negative 41.

Mr. [SAMUEL] LIVERMORE [New Hampshire] moved to alter the clause, so as to secure to the criminal the right of being tried in the state where the offence was committed.

Mr. [MICHAEL JENIFER] STONE [Maryland] observed, that full provision was made on the subject in the subsequent clause.

On the question, Mr. Livermore's motion was adopted.

AEDANUS BURKE [South Carolina]

Said he was not so much discouraged by the fate of his former motions, but what he would venture upon another, he therefore proposed to add to the clause, that no criminal prosecution should be had by way of information.

Mr. [THOMAS] HARTLEY [Pennsylvania] only requested the gentleman to look to the clause, and he would see the impropriety of inserting it in this place.

A desultory conversation rose, respecting the foregoing motion, and after some time Mr. Burke withdrew it for the present.

The committee then arose and reported progress, after which the house adjourned.

1. *Congressional Register*, II, 219–29. Two long versions of the debates were printed in the New York *Daily Advertiser*, 18 August, and in the *Gazette of the United States*, 22 August. The *Advertiser* version was reprinted in fourteen newspapers by 9 September: Mass. (1), R.I. (2), Conn. (1), N.Y. (2), Pa. (4), Md. (2), Va. (2). The *Gazette of the United States* version was reprinted four times by 7 September: Vt. (1), Mass. (1), Conn. (1), Va. (1). A shortened two-paragraph report appeared in the *Gazette of the United States* on 19 August and was reprinted twenty-five times by 30 September: N.H. (3), Mass. (7), R.I. (2), Conn. (3), N.Y. (2), N.J. (2), Pa. (4), Md. (1), Va. (1), and in the December 1789 issue of the Philadelphia *American Museum*.

2. Double Jeopardy was not protected in the Articles of Confederation.

House Debates, Tuesday, 18 August 1789 (excerpts)¹

ELBRIDGE GERRY [Massachusetts]

Moved, “That such of the amendments to the constitution proposed by the several states, as are not in substance comprised in the report of the select committee, appointed to consider amendments, be referred to a committee of the whole house; and that all amendments which shall be agreed to by the committee last mentioned, be included in one report.”

THOMAS TUDOR TUCKER [South Carolina]

Remarked, that many citizens expected that the amendments proposed by the conventions, would be attended to by the house, and that several members conceived it to be their duty to bring them forward; if the house should decline taking them into consideration, it might tend to destroy that harmony which had hitherto subsisted, and which did great honor to their proceedings, it might effect all their future measures, and promote such feuds as might embarrass the government exceedingly. The states who had proposed these amendments would feel some degree of chagrin at having misplaced their confidence in the general government; five important states have pretty plainly expressed their apprehensions of the danger to which the rights of their citizens are exposed; finding these cannot be secured in the mode they had wished, they will naturally occur to the alternative, and endeavor to obtain a federal convention, the consequence of this may be disagreeable to the union; party spirit may be revived, and animosities

rekindled obstructive of tranquillity. States that exert themselves to obtain a federal convention; and those that oppose the measure, may feel so strongly the spirit of discord as to sever the union asunder.

If in this conflict the advocates for a federal convention should prove successful, the consequences may be alarming, we may lose many of the valuable principles now established in the present constitution; if on the other hand a convention should not be obtained, the consequences resulting are equally to be dreaded, it would render the administration of this system of government weak, if not impracticable; for no government can be administered with energy, however energetic its system, unless it obtains the confidence and support of the people, which of the two evils is the greatest would be difficult to ascertain.

It is essential to our deliberations that the harmony of the house be preserved, by it alone we shall be enabled to perfect the organization of the government; a government but in embryo, or at best but in its infancy.

My idea, relative to this constitution whilst it was dependant upon the assent of the several states was, that it required amendment, and that the proper time for amendment was previous to the ratification; my reasons were, that I conceived it difficult, if not impossible to obtain essential amendments by the way pointed out in the constitution; nor have I been mistaken in this suspicion, it will be found, I fear, still more difficult than I apprehended, for perhaps these amendments, should they be agreed to, by two-thirds of both houses of congress, will be submitted for ratification to the legislatures of the several states, instead of state conventions, in which case the chance is still worse. The legislatures of almost all the states consist of two independent distinct bodies, the amendments must be adopted by three-fourths of such legislatures, that is to say, it must meet the approbation of the majority of each of eighteen deliberative assemblies. But notwithstanding all these objections to obtaining amendments after the ratification of the constitution, it will tend to give a great degree of satisfaction to those who are desirous of them, if this house shall take them up and consider them with that degree of candor and attention they have hitherto displayed on the subjects that have come before them; consider the amendments separately, and after fair deliberation, either approve or disapprove of them; by such conduct, we answer in some degree the expectations of those citizens in the several states who have shewn so great a tenacity to the preservation of those rights and liberties they secured to themselves by an arduous persevering, and successful conflict.

I have hopes that the states will be reconciled to this disappointment, in consequence of such procedure.

A great variety of arguments might be urged in favor of the motion; but I shall rest it here, and not trespass any further upon the patience of the house.

JAMES MADISON [Virginia]

Was just going to move to refer these amendments, in order that they might be considered in the fullest manner; but it would be very inconvenient to have them made up into one report, or all of them discussed at the present time.

JOHN VINING [Delaware]

Had no objection to the bringing them forward in the fullest point of view; but his objection arose from the informality attending the introduction of the business.

The order of the house, was to refer the report of the committee of eleven to a committee of the whole, and therefore it was improper to propose any thing additional. A desultory conversation arose on this motion, when Mr. Vining moved the previous question, in which being supported by five members, it was put, and the question was, shall the main question, to agree to the motion, be now put, the ayes and noes being demanded by one fifth of the members present, on this last motion they were taken as follows;

Ayes,—messrs. *Burke, Coles, Floyd, Gerry, Griffin, Grout, Hathorn, Livermore, Page, Parker, Van Rensselaer, Sherman, Stone, Sturges, Sumpter, and Tucker*, 16.

Noes,—messrs. *Ames, Baldwin, Benson, Boudinot, Brown, Cadwallader, Carroll, Clymer, Fitzsimons, Foster, Gilman, Goodhue, Hartley, Heister, Huntington, Lawrance, Lee, Madison, Moore, Muhlenburg, Partridge, Schureman, Scott, Sedgwick, Seney, Sylvester, Sinnickson, Smith (of Maryland), Smith (of South-Carolina) Thatcher, Trumbull, Vining, Wadsworth and Wynkoop*—34.

So the motion was lost. . . .

The house now resolved itself into a committee of the whole on the subject of amendments, and took into consideration the 2d clause of the 7th proposition, in the words following, “The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service in time of war, or public danger) shall be by an impartial jury of freeholders of the vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment, or indictment, by a grand jury; but if a crime be committed in a place in the possession of an enemy, or in which an insurrection may prevail, the indictment and trial may by law be authorised in some

other place within the same state; and if it be committed in a place not within a state, the indictment and trial may be at such place or places as the law may have directed.”

AEDANUS BURKE [South Carolina]

Moved to change the word “vicinage” into “district or county in which the offence has been committed,” he said this was conformable to the practice of the state of South Carolina, and he believed to most of the states in the union, it would have a tendency also to quiet the alarm entertained by the good citizens of many of the states for their personal security, they would no longer fear being dragged from one extremity of the state to the other for trial, at the distance of 3 or 400 miles.

RICHARD BLAND LEE [Virginia]

Thought the word “vicinage” was more applicable than that of “district, or county,” it being a term well understood by every gentleman of legal knowledge.

The question on mr. Burke’s motion being put was negatived.

Mr. [AEDANUS] BURKE [South Carolina] then revived his motion for preventing prosecutions upon information, but on the question this was also lost.

The clause was now adopted without amendment.

The 3d clause of the 7th proposition as follows, “In suits at common law, the right of trial by jury shall be preserved,” was considered and adopted.

The 8th proposition in the words following, was considered, “Immediately after art. 6, the following to be inserted as art. 7.”

“The powers delegated by this constitution to the government of the United States, shall be exercised as therein appropriated, so that the legislative shall not exercise the powers vested in the executive or the judicial; nor the executive the power vested in the legislative or judicial; nor the judicial the powers vested in the legislative or executive.”

Mr. [ROGER] SHERMAN [Connecticut] conceived this amendment to be altogether unnecessary, inasmuch as the constitution assigned the business of each branch of the government to a separate department.

JAMES MADISON [Virginia]

Supposed the people would be gratified with the amendment, as it was admitted, that the powers ought to be separate and distinct, it might also tend to an explanation of some doubts that might arise respecting the construction of the constitution.

Mr. LIVERMORE, thinking the clause subversive of the constitution, was opposed to it, and hoped it might be disagreed to.

On the motion being put, the proposition was carried.

The 9th proposition in the words following was considered, "The powers not delegated by the constitution, nor prohibited by it to the states, are reserved to the states respectively."

THOMAS TUDOR TUCKER [South Carolina]

Proposed to amend the proposition by prefixing to it, "all powers being derived from the people," thought this a better place to make this assertion than the introductory clause of the constitution, where a similar sentiment was proposed by the committee. He extended his motion also, to add the word "expressly" so as to read "The powers not expressly delegated by this constitution."

JAMES MADISON [Virginia]

Objected to this amendment, because it was impossible to confine a government to the exercise of express powers, there must necessarily be admitted powers by implication, unless the constitution descended to recount every minutiae. He remembered the word "expressly" had been moved in the convention of Virginia, by the opponents to the ratification, and after full and fair discussion was given up by them, and the system allowed to retain its present form.

ROGER SHERMAN [Connecticut]

Coincided with Mr. Madison in opinion, observing that corporate bodies are supposed to possess all powers incident to a corporate capacity, without being absolutely expressed.

THOMAS TUDOR TUCKER [South Carolina]

Did not view the word "expressly" in the same light with the gentleman who opposed him; he thought every power to be expressly given that could be clearly comprehended within any accurate definition of the general power.

Mr. TUCKER's motion being negatived,

Mr. [DANIEL] CARROLL [Maryland] proposed to add to the end of the proposition, "or to the people," this was agreed to.

The 10th proposition, "Art. 7 to be made Art. 8," agreed to.

The committee then rose and reported the amendments as amended by the committee.

THOMAS TUDOR TUCKER [South Carolina]²

Then moved, that the following propositions of amendments to the constitution of the United States, be referred to a committee of the whole house, to wit,

Art. 1. sect. 2. clause 2. at the end, add these words, "Nor shall any person be capable of serving as a representative more than six years, in any term of eight years."

Clause 3. at the end add these words "From and after the commencement of the year 1795, the election of senators for each state shall be annual, and no person shall be capable of serving as a senator more than five years in any term of six years."

Sect. 4 clause 1. strike out the words "But the congress may at any time, by law, make or alter such regulations, except as to the places of chusing senators."

Sect. 5. clause 1. amend the first part to read thus "Each state shall be the judge (according to its own laws) of the elections of its senators and representatives to sit in congress, and shall furnish them with sufficient credentials; but each house shall judge of the qualification of its own members: A majority of each house shall constitute &c."

Clause 2. strike out these words "And with the concurrence of two-thirds expel a member," and insert the word "and" after the word "proceedings."

Sect. 6. clause 2. amend to read thus "No person having been elected, and having taken his seat as a senator or representative, shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, and no person, &c."

Art. 1. sect 8. clause 1. at the end add these words "No direct tax shall be laid, unless any state shall have neglected to furnish in due time, its proportion of a previous requisition, in which case congress may proceed to levy, by direct taxation within any state so neglecting, its proportion of such requisition, together with interest at the rate of six per cent per annum from the time it ought to have been furnished, and the charges of levying the same."

Clause 9. strike out the words "Tribunals inferior to the supreme court," and insert the words "courts of admiralty."

Clause 17. at the end add these words, "Provided that the congress shall not have authority to make any law to prevent the laws of the states respectively in which such district or places may be, from extending to such district or places in all civil and criminal matters, in which any person without the limits of such district or places, shall be a party aggrieved."

Sect. 9. clause 7. strike out the words "Without the consent of the congress" and amend to read thus, "Shall accept of any present or emolument, or hold any office or title of any kind whatever from any king, prince, or foreign state; provided that this clause shall not be construed to affect the rights of those persons (during their own lives) who are now citizens of the United States, and hold foreign titles."

Sect. 10. clause 2. amend the first sentence to read thus, “No state shall lay any duties on imports or exports, or any duty of tonnage, except such as shall be uniform in their operation on all foreign nations, and consistent with existing treaties, and also uniform in their operation on the citizens of all the several states in the Union.”

Art. 2. sect. 1. clause 5. at the end add these words, “Nor shall any person be capable of holding the office of president of the United States more than eight years in any term of 12 years.”

Sect. 2. clause 1. strike out the words “be commander in chief,” and insert, “have power to direct (agreeable to law) the operations.”

Clause 3. at the end add these words, “He shall also have power to suspend from his office, for a time not exceeding twelve months, any officer whom he shall have reason to think unfit to be entrusted with the duties thereof; and congress may, by law, provide for the absolute removal of officers found to be unfit for the trust reposed in them.”

Art. 3. sect. 1. from each sentence strike out the words “inferior courts” and insert the words “courts of admiralty.”

Sect. 2. clause 1. strike out the words “Between a state and citizens of another state, &c.” to the end, and amend to read thus, “between a state and foreign states, and between citizens of the United States claiming the same lands under grants of different states.”

Art. 6. clause 3. between the word “no” and the word “religious” insert the word “other.”

On the question, shall the said propositions of amendments be referred to the consideration of a committee of the whole house. It was determined in the negative.

And then the house adjourned.

1. *Congressional Register*, II, 230–37. The *Gazette of the United States*, 19 August, account was reprinted twenty times by 30 September: N.H. (4), Mass. (5), R.I. (1), Conn. (1), N.Y. (3), Pa. (4), Md. (1), Va. (1), and in the December 1789 issue of the *Philadelphia American Museum*. The *New York Daily Advertiser*, 19 August, account was reprinted twenty times by 23 September: Vt. (1), Mass. (5), R.I. (1), Conn. (3), N.Y. (2), N.J. (1), Pa. (3), Md. (1), Va. (3).

2. The *New York Daily Advertiser*, 22 August, printed Tucker’s motion and indicated that the motion was defeated. This version was reprinted in the *Pennsylvania Packet*, 27 August; the *New York Journal*, 10 September; and the Providence, R.I., *United States Chronicle*, 17 September. The account of the debates of the 18th printed in the *Gazette of the United States*, 19 August, indicated that Tucker’s motion with seventeen amendments “were read and laid on the table.” A one-sentence reprint appeared in seven newspapers by 5 September: R.I. (2), N.Y. (2), Pa. (2), Va. (1). A three-sentence errata in the *Gazette of the United States*, 22 August, indicated that Tucker’s “motion was negated by a great majority.” The errata was not printed in any other newspaper.

House Proceedings, Wednesday, 19 August 1789¹

The house then took into consideration the amendments to the constitution, as reported by the committee of the whole.

Mr. [ROGER] SHERMAN [Connecticut] renewed his motion for adding the amendments to the constitution by way of supplement.

Hereupon ensued a debate similar to what took place in the committee of the whole [on 13 August] but on the question, mr. Sherman's motion was carried by two-thirds of the house, of consequence it was agreed to.

The first proposition of amendment was rejected because two-thirds of the members present did not support it.

FISHER AMES [Massachusetts]

Then brought forward his motion respecting the representation; suggested, [on 14 August], A desultory conversation took place, and several amendments of the motion were attempted, but the house adjourned without coming to any determination.

1. *Congressional Register*, II, 241. Three versions of the debates were printed. The version in the *New York Journal*, 20 August, was reprinted twelve times by 14 September: N.H. (1), Mass. (4), Conn. (3), N.Y. (3), Pa. (1). The version in the *New York Daily Advertiser*, 20 August, was reprinted twenty-two times by 30 September: Vt. (1), N.H. (1), Mass. (4), R.I. (1), Conn. (3), N.Y. (2), N.J. (1), Pa. (6), Md. (1), Va. (2). The version printed in the *Gazette of the United States*, 22 August, was reprinted five times by 14 September: N.H. (2), Mass. (1), R.I. (1), Conn. (1).

House Debates, Thursday, 20 August 1789¹

The house then resumed the consideration of the report of the committee of the whole on the subject of amendment.

FISHER AMES's [Massachusetts] proposition was taken up. Five or six other members introduced propositions on the same point; and the whole, were by mutual consent, laid on the table. After which the house proceeded to the third amendment, and agreed to the same.

On motion of mr. Ames, the fourth amendment was altered so as to read "congress shall make no law establishing religion, or to prevent the free exercise thereof, or to infringe the rights of conscience." This being adopted.

The first proposition was agreed to.

THOMAS SCOTT [Pennsylvania]

Objected to the clause in the sixth amendment, "No person religiously scrupulous, shall be compelled to bear arms." He observed that if this becomes part of the constitution, such persons can neither be called upon for their services, nor can an equivalent be demanded; it is also attended with still further difficulties, for a militia can never be depended upon. This would lead to the violation of another article in the constitution, which secures to the people the right of keeping arms, and in this case recourse must be had to a standing army. I conceive

it, said he, to be a legislative right altogether. There are many sects I know, who are religiously scrupulous in this respect; I do not mean to deprive them of any indulgence the law affords; my design is to guard against those who are of no religion. It has been urged that religion is on the decline; if so the argument is more strong in my favor, for when the time comes that religion shall be discarded, the generality of persons will have recourse to these pretexts, to get excused from bearing arms.

ELIAS BOUDINOT [New Jersey]

Thought the provision in the clause, or something similar to it, was necessary. Can any dependence, said he, be placed in men who are conscientious in this respect; or what justice can there be in compelling them to bear arms, when, according to their religious principles, they would rather die than use them. He adverted to several instances of oppression in this point, that occurred during the war. In forming a militia, an effectual defence ought to be calculated, and no characters of this religious description ought to be compelled to take up arms. I hope that in establishing this government, we may shew the world that proper care is taken that the government may not interfere with the religious sentiments of any person. Now, by striking out the clause, people may be led to believe that there is an intention in the general government to compel all its citizens to bear arms.

Some further desultory conversation arose and it was agreed to insert the words “in person” to the end of the clause; after which it was adopted, as was the 4th, 5th, 6th, 7th and 8th clauses of the 4th proposition; then the 5th, 6th and 7th propositions was agreed to, and the house adjourned.

1. *Congressional Register*, II, 242–43. One version of the debates consisting of seven paragraphs was printed in the *Gazette of the United States*, 22 August, and reprinted twenty-three times by 23 September: Vt. (1), N.H. (3), Mass. (6), R.I. (1), Conn. (3), N.Y. (1), N.J. (1), Pa. (2), Md. (2), Va. (3), and in the December 1789 issue of the *Philadelphia American Museum*. Another version consisting of two short paragraphs was printed in the *New York Daily Advertiser*, 21 August, and reprinted sixteen times by 30 September: Mass. (2), Conn. (2), N.Y. (4), Pa. (5), Md. (1), Va. (1), N.C. (1).

House Debates, Friday, 21 August 1789¹

The house proceeded in the consideration of the amendments to the constitution reported by the committee of the whole, and took up the 2d clause of the 4th proposition.

ELBRIDGE GERRY [Massachusetts]

Then proposed to amend it by striking out these words, “public danger” and to insert foreign invasion; this being negatived, it was then

moved to strike out the last clause, "and if it be committed, &c." to the end. This motion was carried, and the amendment was adopted.

The house then took into consideration the 3d clause of the 7th proposition, which was adopted without debate.

The 8th proposition was agreed to in the same manner.

The 9th proposition, mr. Gerry proposed to amend by inserting the word "expressly" so as to read the powers not expressly delegated by the constitution, nor prohibited to the states, are reserved to the states respectively or to the people; as he thought this an amendment of great importance, he requested the ayes and noes might be taken. He was supported in this by one fifth of the members present, whereupon they were taken, and are as follows:

Ayes,—messrs. *Burke, Coles, Floyd, Gerry, Grout, Hathorn, Jackson, Livermore, Page, Parker, Partridge, Van Rensselaer, Smith* (of South-Carolina) *Stone, Sumpter, Thatcher, and Tucker, 17.*

Noes,—messrs. *Ames, Benson, Boudinot, Brown, Cadwallader, Carroll, Clymer, Fitzsimons, Foster, Gale, Gilman, Goodhue, Hartley, Heister, Lawrance, Lee, Madison, Moore, Muhlenburg, Schureman, Scott, Sedwick, Seney, Sherman, Sylvester, Sinnickson, Smith,* (of Maryland) *Sturges, Trumbull, Vining, Wadsworth and Wynkoop—32.*

ROGER SHERMAN [Connecticut]

Moved to alter the last clause so as to make it read, 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.

This motion was adopted without debate.

AEDANUS BURKE [South Carolina]

The majority of this house may be inclined to think all our propositions unimportant, as they seemed to consider that upon which the ayes and noes were just now called. However, to the minority they are important; and it will be happy for the government, if the majority of our citizens are not of their opinion; but be this as it may, I move you, sir, to add to the articles of amendment, the following, "Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections of senators, or representatives, except when any state shall refuse or neglect, or be unable, by invasion or rebellion, to make such election."

FISHER AMES [Massachusetts]

Thought this one of the most justifiable of all the powers of congress, it was essential to a body representing the whole community, that they should have power to regulate their own elections, in order to secure

a representation from every part, and prevent any improper regulations, calculated to answer party purposes only. It is a solecism in politics, to let others judge for them, and is a departure from the principles upon which the constitution was founded.

SAMUEL LIVERMORE [New Hampshire]

Said, this was an important amendment, and one that had caused more debate in the convention of New-Hampshire than any other whatever. The gentleman just up, said it was a solecism in politics, but he could cite an instance in which it had taken place. He only called upon gentlemen to recollect the circumstance of mr. Smith's (of South-Carolina) election, and answer him was not that decided by the state laws? Was not his qualification as a member of the federal legislature, determined upon the laws of South-Carolina? It was not supposed by the people of South-Carolina, that the house would question a right derived by their representative from their authority.

JAMES MADISON [Virginia]

If this amendment had been proposed at any time either in the committee of the whole or separately in the house, I should not have objected to the discussion of it. But I cannot agree to delay the amendments now agreed upon, by entering into the consideration of propositions not likely to obtain the consent of either two-thirds of this house or three-fourths of the state legislatures. I have considered this subject with some degree of attention, and upon the whole, am inclined to think the constitution stands very well as it is.

ELBRIDGE GERRY [Massachusetts]

Was sorry that gentlemen objected to the time and manner of introducing this amendment, because it was too important in its nature to be defeated by want of form. He hoped, and he understood it to be the sense of the house that each amendment should stand upon its own ground; if this was, therefore, examined on its own merits, it might stand or fall as it deserved, and there would be no cause for complaint on the score of inattention.

His colleague, (mr. Ames,) objected to the amendment, because he thought no legislature was without the power of determining the mode of its own appointment, but he would find, if he turned to the constitution of the state he was a representative of, that the times, places and manner of chusing members of their senate and council were prescribed therein.²

Why, said he, are gentlemen desirous of retaining this power? Is it because it gives energy to the government? It certainly has no such

tendency; then why retain a clause so obnoxious to almost every state? But this provision may be necessary in order to establish a government of an arbitrary kind, to which the present system is pointed in no very indirect manner: In this way, indeed, it may be useful. If the United States are desirous of controlling the elections of the people, they will in the first place, by virtue of the powers given them by the 4th sect, of the 1st art. abolish the mode of balloting, then every person must publicly announce his vote, and it would then frequently happen that he would be obliged to vote for a man or the friend of a man to whom he was under obligations. If the government grows desirous of being arbitrary, elections will be ordered at remote places, where their friends alone will attend. Gentlemen will tell me that these things are not to be apprehended; but if they say that the government has the power of doing them, they have no right to say the government will never exercise such powers, because it is presumable that they will administer the constitution at one time or another with all its powers, and whenever that time arises, farewell to the rights of the people, even to elect their own representatives.

MICHAEL JENIFER STONE [Maryland]

Called upon gentlemen to shew what confederated government had the power of determining on the mode of their own election. He apprehended there were none; for the representatives of states were chosen by the states in the manner they pleased. He was not afraid that the general government would abuse this power, and as little afraid that the states would; but he thought it was in the order of things that the power should vest in the states respectively, because they can vary their regulations to accommodate the people in a more convenient manner than can be done in any general law whatever. He thought the amendment was generally expected, and therefore on the principles of the majority ought to be adopted.

WILLIAM LOUGHTON SMITH [South Carolina]

Said he hoped it would be agreed to, that eight states had expressed their desires on this head, and all of them wished the general government to relinquish their control over the elections. The eight states he alluded to were New-Hampshire, Massachusetts, New-York, Pennsylvania, Maryland, Virginia, North-Carolina, and South-Carolina.

Mr. [DANIEL] CARROLL [Maryland] denied that Maryland had expressed the desire attributed to her.

Mr. [THOMAS] FITZSIMONS [Pennsylvania]. The remark was not just as it respected Pennsylvania.

Mr. [WILLIAM LOUGHTON] SMITH (of S. C.) said the convention of Maryland, appointed a committee to recommend amendments, and among them was the one now under consideration.

Mr. [MICHAEL JENIFER] STONE [Maryland] replied there was nothing of the kind noticed on the journals of that body.

WILLIAM LOUGHTON SMITH [South Carolina]

Did not know how they came into the world, but he had certainly seen them. As to Pennsylvania there was a very considerable minority, he understood one third, who had recommended the amendment. Now, taking all circumstances into consideration, it might be fairly inferred that a majority of the United States was in favor of this amendment. He had studied to make himself acquainted with this particular subject, and all that he had ever heard in defence of the power being exercised by the general government was, that it was necessary, in case any state neglected or refused to make provision for the election. Now these cases were particularly excepted by the clause proposed by his honorable colleague; and therefore he presumed there was no good argument against it.

THEODORE SEDGWICK [Massachusetts]

Moved to amend the motion by giving the power to congress to alter the times, manner and places of holding elections, provided the states made improper ones; for as much injury might result to the union from improper regulations, as from a neglect or refusal to make any; it is as much to be apprehended that the states may abuse their powers, as that the United States may make an improper use of theirs.

FISHER AMES [Massachusetts]

Said, that inadequate regulations were equally injurious, as having none; and that such an amendment as was now proposed, would alter the constitution; it would vest the supreme authority in places where it was never contemplated.

ROGER SHERMAN [Connecticut]

Observed, that the convention were very unanimous in passing this clause, that it was an important provision, and if it was resigned it would tend to subvert the government.

JAMES MADISON [Virginia]

Was willing to make every amendment that was required by the states, which did not tend to destroy the principles, and the efficacy of the constitution; he conceived that the proposed amendment would have that tendency, he was therefore opposed to it.

WILLIAM LOUGHTON SMITH [South Carolina]

Observed, that the states had the sole regulation of elections, so far as it respected the president. Now he saw no good reason why they should be indulged in this, and prohibited from the other, but the amendment did not go so far; it admitted that the general government might interfere whenever the state legislature refused or neglected; and it might happen that the business would be neglected without any design to injure the administration of the general government; it might be that the two branches of the legislature could not agree, as happened he believed in the legislature of New-York, with respect to their choice of senators at their late session.³

THOMAS TUDOR TUCKER [South Carolina]

Objected to mr. Sedgwick's motion of amendment, because it had a tendency to defeat the object of the proposition brought forward by his colleague, (mr. Burke.) The general government would be the judge of inadequate or improper regulations, of consequence they might interfere in any or every law which the states might pass on that subject.

He wished that the state legislatures might be left to themselves to perform every thing they were competent to, without the guidance of congress, he believed there was no great danger, but they knew they would pursue their own good, as well when left to their discretion, as they would under the direction of a superior. It seemed to him as if there was a strong propensity in this government to take upon themselves the guidance of the state government, which to his mind implied a doubt of their capacity, to govern themselves, now his judgment was convinced that the particular state governments could take care of themselves, and deserved more to be trusted than this did, because the right of the citizens were more secure under it.

It had been supposed by some states, that electing by districts was the most convenient mode of chusing members to this house; others have thought that the whole state ought to vote for the whole number of members to be elected for that state. Congress might, under like impressions, set their regulations aside. He had heard that many citizens of Virginia (which state was divided into eleven districts)⁴ supposed themselves; abridged of nine-tenths of their privilege by being restrained to the choice of one man instead of ten, the number that state sends to this house.

With respect to the election of senators, the mode is fixed, every state but New-York, has established a precedent, there is therefore but little danger of any difficulty on this account. As to New-York, she suffers by her want of decision, it is her own loss, but probably they may

soon decide the point, and then no difficulty can possibly arise hereafter; from all these considerations he was induced to hope mr. Sedgwick's motion would be negatived, and his colleague's agreed to.

BENJAMIN GOODHUE [Massachusetts]

Hoped the amendment never would obtain. Gentlemen should recollect there appeared a large majority against amendments, when the subject was first introduced, and he had no doubt but that majority still existed. Now, rather than this amendment should take effect, he would vote against all that had been agreed to. His greatest apprehensions were, that the state governments would oppose and thwart the general one to such a degree as finally to overturn it: Now, to guard against this evil, he wished the federal government to possess every power necessary to its existence.

AEDANUS BURKE [South Carolina]

Was convinced there was a majority against him, but nevertheless he would do his duty, and propose such amendments as he conceived essential to secure the rights and liberties of his constituents. He begged permission to make an observation or two, not strictly in order; the first was on an assertion that had been repeated more than once in this house, "That this revolution or adoption of the new constitution was agreeable to the public mind, and that those who opposed it at first are now satisfied with it." I believe, sir, said he, that many of those gentlemen who agreed to the ratification without amendments, did it from principles of patriotism, but they knew at the same time, that they parted with their liberties, yet they had such reliance on the virtue of a future congress, that they did not hesitate, expecting that they would be restored to them unimpaired as soon as the government commenced its operations, conformably to what was mutually understood at the sealing and delivering up those instruments.

It has been supposed that there is no danger to be apprehended from the general government of an invasion of the rights of election. I will remind gentlemen of an instance in the government of Holland. The patriots in that country, fought no less strenuously for that prize than the people of America; yet, by giving to the states general powers not unlike those in this constitution, their right of representation was abolished. That they once possessed it is certain, and that they made as much talk about its importance as we do; but now the right has ceased, all vacancies are filled by the men in power. It is our duty, therefore, to prevent our liberties from being foalled away in a similar manner; consequently we ought to adopt the clause, which secures to the general government every thing that ought to be required.

JAMES MADISON [Virginia]

Observed, that it was the state governments in the Seven United Provinces which had assumed to themselves the power of filling vacancies, and not the general government, therefore the gentleman's application did not hold.

The question on mr. Sedgwick's motion for amending mr. Burke's proposition was put and lost.

The question was then put on mr. Burke's motion, and the ayes and noes being demanded by the constitutional number; they were taken as follows;

Ayes,—messrs. *Burke, Coles, Floyd, Gerry, Griffin, Grout, Hathorn, Heister, Jackson, Livermore, Matthews, Moore, Page, Parker, Partridge, Van Rensselaer, Seney, Sylvester, Smith*, (of South-Carolina) *Stone, Sumpter, Thatcher and Tucker*.—23.

Noes,—messrs. *Ames, Benson, Boudinot, Brown, Cadwallader, Carroll, Clymer, Fitzsimons, Foster, Gale, Gilman, Goodhue, Hartley, Lawrance, Lee, Madison, Muhlenberg, Schureman, Scott, Sedgwick, Sherman, Sinnickson, Smith*, (of Maryland) *Sturges, Trumbull, Vining, Wadsworth and Wynkoop*.—28.

So it was determined in the negative.

The house then resumed the consideration of the proposition respecting the apportioning of the representation to a certain ratio, proposed by mr. Ames.

When, after some desultory conversation, it was agreed to as follows; "After the first enumeration, required by the first article of the constitution, there shall be one representative for every 30,000, until the number shall amount to one hundred. After which, the proportion shall be so regulated by congress, that there shall be not less than one hundred representatives, nor less than one representative for every 40,000 persons, until the number of representatives shall amount to two hundred; after which the proportion shall be so regulated by congress, that there shall not be less than two-hundred representatives, nor less than one representative for 50,000 persons."

After which the house adjourned.

1. *Congressional Register*, II, 243–51. The report of the debates in the *Gazette of the United States*, 22 August, was reprinted twenty-five times by 23 September: Vt. (1), N.H. (3), Mass. (5), R.I. (1), Conn. (5), N.Y. (2), N.J. (1), Pa. (3), Md. (1), Va. (3), and in the December 1789 issue of the *Philadelphia American Museum*. The report in the *New York Daily Advertiser*, 22 August, was reprinted nine times by 30 September: Mass. (1), N.Y. (1), Pa. (5), Md. (2). A brief report in the *New York Weekly Museum* and the *New York Packet*, 22 August, indicated that "The house met, pursuant to an adjournment, and resumed the consideration of the amendments to the Constitution, and went through the same as reported by the committee of the whole; after which the House adjourned." This summary was reprinted in the *Boston Herald of Freedom*, 28 August; Portland, Maine, *Cum-*

berland Gazette, 4 September; Pittsfield, Mass. *Berkshire Chronicle*, 7 September; and the *State Gazette of North Carolina*, 10 September. The New York *Daily Gazette*, 22 August, called the debate “considerable [and] interesting” and promised, but did not provide details later.

2. The Massachusetts Constitution of 1780, Chapter II, Section 3, Article II provided for the election of the Massachusetts Council.

3. The New York legislature disagreed over the method of electing U.S. senators. The more numerous Assembly wanted to vote by joint ballot, while the state Senate wanted to elect by each house separately.

4. Virginia was divided into ten congressional election districts.

House Debates, Saturday, 22 August 1789¹

The house resumed the consideration of the amendments to the constitution. When

THOMAS TUDOR TUCKER [South Carolina]

Moved the following as a proposition to be added to the same. “The congress shall never impose direct taxes but where the monies arising from the duties, imposts and excise are insufficient for the public exigencies, nor then until congress shall have made a requisition upon the states to assess, levy, and pay their respective proportions of such requisitions. And in case any state shall neglect, or refuse to pay its proportion, pursuant to such requisition, then congress may assess, and levy such states proportioned, together with the interest thereon at the rate of 6 per cent. per annum, from the time of payment prescribed by such requisition.”

JOHN PAGE [Virginia]

Said that he hoped every amendment to the constitution would be considered separately in the manner this was proposed, but he wished them considered fully; it ought to have been referred to the committee of eleven, reported upon, and then to the committee of the whole. This was the manner in which the house had decided upon all those already agreed to, and this ought to be the manner in which this should be decided, he should be sorry to delay what was so nearly completed on any account; the house has but little time to sit, and the subject has to go before the senate, therefore it requires of us, all the expedition we can possibly give it. I would prefer putting a finishing hand to what has been already agreed to, and refer this to the committee of eleven, for their consideration.

THOMAS TUDOR TUCKER [South Carolina]

This proposition was referred to the committee, along with many others in the gross; but the committee of eleven declined reporting upon it. I understood it to be in any gentleman’s power to bring it

forward when he thought proper, and it was under this influence that I proposed it, nor do I conceive it to be an improper time. The house is engaged in the discussion of amendments; they have made some progress; and I wish them to go on to complete what they have begun. This may be added without inconvenience if it meets the sense of the house; but if it does not, I wish my constituents to be acquainted with our decision on the whole subject, and therefore hope it may be decided upon at this time.

JAMES JACKSON [Georgia]

The gentleman has an undoubted right to bring forward the proposition; but I differ greatly with respect to its propriety. I hope, sir, the experience we have had, will be sufficient to prevent us from ever agreeing to a relinquishment of such an essential power. The requisitions of the former congress were ineffectual to obtain supplies; they remain to this day neglected by several states. If a sense of common danger, if war, and that a war of the noblest kind, a contest for liberty, were not sufficient to stimulate the states to a prompt compliance, when the means was abundant, by reason of the immense quantities of paper medium, can we ever expect an acquiescence to a requisition in future, when the only stimulus is honesty, to enable the confederation to discharge the debts incurred by the late war?

But suppose requisitions were likely to be, in some degree, complied with, (which by the by I never can admit) in every case where a state had neglected or refused to furnish its quota, congress must come in, assess and collect it. Now in every such case, I venture to affirm, that jealousies would be excited, discontent would prevail, and civil wars break out. What less can gentlemen picture to themselves, when a government has refused to perform its obligations, but that it will support its measures by the point of the bayonet.

Without the power of raising money to defray the expences of government, how are we to be secure against foreign invasion? What, can a government exert itself, with its sinews torn from it? We can expect neither strength nor exertion; and without these are acquired and preserved, our union will not be lasting; we shall be rent assunder by intestine commotion, or exterior assault, and when that period arrives, we may bid adieu to all the blessings we have purchased at the price of our fortunes, and the blood of our worthiest heroes.

SAMUEL LIVERMORE [New Hampshire]

Thought this an amendment of more importance than any yet obtained; that it was recommended by five or six states, and therefore ought to engage their most serious consideration. It had been supposed

that the United States will not attempt to levy direct taxes, but this is certainly a mistake; he believed nothing but the difficulty of managing the subject would deter them: The mode of levying and collecting taxes pursued by the several states are so various, that it is an insuperable obstacle to an attempt by the general government.

He was sensible the requisitions of the former congress had not been fully complied with, and the defect of the confederation was, that the government had no powers to enforce a compliance. The proposition now under consideration obviated that difficulty. Suppose one or two states refused to comply, certainly the force of the others could compel them, and that is all that ought to be required; because it is not to be supposed that a majority of the states will refuse, as such an opposition must destroy the union. He hoped the states would be left to furnish their quotas in a manner the most easy to themselves, as was requested by more than the half of the present union.

Unless something more effectual was done to improve the constitution, he knew his constituents would be dissatisfied. As to the amendments already agreed to, they would not value them more than a pinch of snuff, they went to secure rights never in danger.

JOHN PAGE [Virginia]

Wished the proposition might be recommitted, for he was certain there was neither time nor inclination to add it to those already agreed upon.

He observed that the warmest friends to amendments differed in opinion on this subject; many of them have ceased urging it, while others have become strenuous advocates for the reverse: The most judicious and discerning men now declare that the government ought never to part with this power. For his part, experience had convinced him that no reliance was to be had on requisitions, when the states had treated them with contempt in the hour of danger, and had abundant means of compliance. The public credit stood at this moment in the utmost need of support, and he could not consent to throw down one of its strongest props. He thought there was no danger of an abuse of this power, for the government would not have recourse to it while the treasury could be supplied from any other source, and when they did, they would be studious of adapting their law to the convenience of the states. He hoped when the gentleman returned home to New-Hampshire, his constituents would give him credit for his exertions, and be better satisfied with the amendments than he now supposed them to be.

THOMAS SUMTER [South Carolina]

Felt himself so sensibly impressed with the importance of the subject, that if he apprehended the proposition would not have a fair discussion at this time, he would second the motion of commitment, and had not a doubt but the house would acquiesce in it.

Gentlemen had said that the states had this business much at heart. Yes, he would venture to say more, that if the power was not relinquished by the general government, the state governments would be annihilated. If every resource is taken from them, what remains in the power of the states for their support, or the extinguishment of their domestic debt.

ELBRIDGE GERRY [Massachusetts]

Thought if the proposition was referred, that it ought to go to a committee of the whole, for he wished it to have a full and candid discussion. He would have something left in the power of every state to support itself independent of the United States, and therefore was not satisfied with the amendment proposed. The constitution in its original state gives to congress the power of levying and collecting taxes, duties, imposts and excise, the fault here is, that every thing is relinquished to the general government. Now the amendments give the same power with qualification, that there shall have been a previous requisition. This by no means came up to his idea; he thought that some particular revenue ought to be secured to the states so as to enable them to support themselves.

He apprehended when this clause in the constitution was under the consideration of the several state conventions, they would not so readily have ratified it, if they had considered it more fully in the point of view, he had now placed it, but if they had ratified it, it would have been under a conviction that congress would admit such amendments as were necessary to the existence of the state governments. At present the states are divested of every means to support themselves; if they discover a new source of revenue, after congress shall have diverted all the old ones into their treasury, the rapacity of the general government can take that from them also. The states can have recourse to no tax, duty, impost or excise but what may be taken from them whenever the congress shall be so disposed, and yet gentlemen will say that the annihilation of the state governments must be followed by the ruin of this.

Now what is the consequence of the amendment? Either the states will or will not comply with the requisitions; if they comply, they vol-

untar[il]y surrender their means of support; if they refuse the arms of congress are raised to compel them, which in all probability may lay the foundation for civil war. What umbrage must it give every individual to have two sets of collectors and tax-gather[er]s surrounding their doors, the people then sowered, and a direct refusal by the legislature will be the occasion of perpetual discord. He wished to alter this proposition in such a manner as to secure the support of the federal government, and the state governments likewise, and therefore wished the amendment referred to a committee of the whole house.

THOMAS TUDOR TUCKER [South Carolina]

I do not see the arguments in favor of giving congress this power in so forcible a light as some gentlemen do: It will be to erect an *imperium in imperio*,² which is generally considered to be subversive of all government. At any time that congress shall exercise this power, it will raise commotions in the states; whereas the mode of requisitions will operate in so easy a way, by being consonant to the habits of the people, that the supplies will be sooner realized in the treasury by this means than by any other. It will require a length of time to form an uniform system of taxation, that shall operate equally and justly through all the states; though I doubt the possibility of forming such a system. It has been said that requisitions have not been complied with in former times, but it is to be hoped that there will not be so much difficulty in future. The supplies from the impost will greatly diminish the requisitions; besides, should any of the states refuse to comply, they will be liable to the exercise of the power of congress in the very heart of their country. This power will be so disagreeable, that the very dread of it will stimulate the states to an immediate and prompt compliance with the requisitions. This amendment has been proposed by several of the states, and by some of the most important ones; for this and other reasons that have been offered on the subject, I hope the amendment will be adopted.

Several methods were proposed for disposing of this question for the present, but the motion for its lying on the table being put and negatived, mr. [George] Partridge [Massachusetts], referring to his instructions, was solicitous that this amendment should not be too precipitately decided upon, moved the previous question, which was negatived.

THEODORE SEDGWICK [Massachusetts]

Said that he believed his mind was as strongly impressed with the force of the instructions he had received from his constituents, as that of other gentlemen. But, sir, said he, a government entrusted with the freedom, and the very existence of the people, ought surely to possess

in the most ample manner, the means of supporting its own existence; and as we do not know what circumstances we may be in, nor how necessary it may be for congress to exercise this power, I should deem it a violation of the oath I have taken to support the constitution, were I now to vote for this amendment.

ROGER SHERMAN [Connecticut]

Remarked that if congress should exercise this power, the taxes would be laid by the immediate representatives of the people; neither would it be necessary to adopt one uniform method of collecting direct taxes. The several states might be accommodated by a reference to their respective modes of taxation.

The question upon the paragraph being called for from every part of the house, the ayes and noes were taken.

Ayes,—messrs. *Burke, Coles, Floyd, Grout, Hathorn, Livermore, Van Rensselaer, Sumpter, and Tucker*.—9.

Noes,—messrs. *Ames, Benson, Brown, Cadwallader, Carroll, Clymer, Fitzsimons, Foster, Gale, Gerry, Gilman, Goodhue, Hartley, Heister, Jackson, Lawrence, Lee, Madison, Matthews, Moore, Muhlenberg, Page, Parker, Partridge, Schureman, Scott, Sedgwick, Seney, Sherman, Sylvester, Sinnickson, Smith, (of Maryland) Smith (of South Carolina), Stone, Sturges, Thatcher, Trumbull, Vining, and Wadsworth*.—39.

Mr. [THOMAS TUDOR] TUCKER [South Carolina] proposed the following amendment to the constitution.

Art. 1. sect. 8. clause 9. strike out the words, “tribunals inferior to the supreme court,” and insert the words “courts of admiralty.”

And on the question being put, it passed in the negative.

He then moved for a further amendment to the constitution, as follows:

In the third section of the sixth article insert the word “other” between the word “no,” and the word “religious.”

And on the question that the house do agree to the said amendment, it passed in the negative.

Mr. [ELBRIDGE] GERRY [Massachusetts] moved to add to the amendments already agreed to, the following article, to wit.

“That congress erect no company of merchants with exclusive advantages of commerce.” And on the question that the house do agree to the said proposed article, it passed in the negative.

He introduced another motion to add to the amendments already agreed to, the following article, to wit.

“Congress shall at no time consent that any person holding an office of trust or profit under the United States, shall accept of a title of

nobility or any other title or office from any king, prince, or foreign state.”

And on the question being put, it was negatived.

EGBERT BENSON [New York]

Introduced a resolution to the following purport: “Resolved by the house of representatives of the United States in congress assembled, that the following amendments to the constitution of the United States having been agreed to by two-thirds of both houses, be submitted to the legislatures of the several states; which, when ratified in whole or in part, by three-fourths of the said legislatures, shall be valid to all intents and purposes as parts of the said constitution.” This resolution was referred to a committee consisting of messrs. Benson, Sherman, and Sedgwick, who were directed to arrange the said amendments and make report thereof.³

1. *Congressional Register*, II, 251–57. The report of the debates in the New York *Daily Advertiser*, 24 August, was reprinted twenty-four times by 7 October: Vt. (1), N.H. (2), Mass. (3), R.I., (1), Conn. (3), N.Y. (4), N.J. (1), Pa. (6), Md. (2), Va. (1), N.C. (1). The report in the *Gazette of the United States*, 26 August, was reprinted nine times by 10 September: N.H. (1), Mass. (2), Conn. (1), N.Y. (1), Pa. (1), Md. (1), Va. (2).

2. A government sovereignty within a government sovereignty.

3. The *New Hampshire Spy*, 1 September, reported that “The AMENDMENT business being finished in the House, a committee consisting of Messrs. *Benson*, *Sherman*, and *Sedgwick*, was yesterday (Saturday) appointed to bring in a resolve, prefacing the same; also to make a proper arrangement of them, and report to the House. These Amendments are to be submitted to the several State Legislatures for their adoption *in whole or in part*. Several additional Amendments were proposed yesterday, and rejected by large majorities.—One—*To take from Congress the power of direct taxation*, was negative, 39 to 8. Another respecting “Titles of Nobility,” and another against establishing Mercantile Companies with exclusive privileges were likewise lost.

The plan of incorporating the amendments being given up, the identity of the system remains; and if the amendments in any future time should be found to be unnecessary, superfluous, or absurd, they may be lopped off as a useless branch of the tree.”

House Proceedings, Monday, 24 August 1789¹

From the committee appointed EGBERT BENSON [New York] reported, according to order, an arrangement of the articles of amendment to the constitution of the United States, as agreed to by the house on Friday last; also a resolution prefixed to the same, which resolution he delivered in at the clerk’s table, where the same was twice read and agreed to by the house, as followeth:²

Resolved, By the senate and house of representatives of the United States of America in Congress assembled, two thirds of both houses deeming it necessary, that the following articles be proposed to the

legislatures of the several states as amendments to the constitution of the United States, all or any of which articles, when ratified by three-fourths of the said legislatures, to be valid to all intents and purposes as part of the said constitution.

Ordered, That the clerk of this house do carry to the senate, a fair engrossed copy of the said proposed articles of amendment and desire their concurrence.³

1. *Congressional Register*, II, 259.

2. The *New York Journal*, 27 August summarized the first paragraph accordingly: "The committee appointed to arrange the amendments agreed to by the House, and to prepare a resolution as a preamble to the same, made report, which was accepted. The amendments as arranged were then read." Reprinted ten times by 19 September: N.H. (1), Mass. (3), R.I. (1), Conn. (1), Pa. (3), Md. (1).

3. An "Extract of a letter from New-York, August 23," printed in the *Massachusetts Centinel*, 2 September, stated "The last fortnight has been almost wholly taken up by the House in considering amendments to the Constitution—and which was happily terminated yesterday, when two-thirds of the House agreed to recommend to the people about fifteen or sixteen distinct articles.—Those will be sent to the Senate on the morrow—and after they have been canvassed and agreed to by two-thirds of the Senate, they will be sent out to the people to be ratified by three-fourths of the States, either in their Legislatures, or in Conventions to be chosen for that purpose.—I am not able yet to say which mode will be recommended by Congress. I have some doubt, however, whether the Senate will pass upon them this session—indeed, if Congress should adjourn in the course of three or four weeks, I rather am of opinion they will put the subject over to the next meeting of Congress, which will be in December or January." Reprinted in the *New Hampshire Gazette*, 3 September, and the Portland, Maine *Cumberland Gazette*, 4 September.

House Proposed Amendments, 24 August 1789¹

RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, two thirds of both Houses deeming it necessary. That the following Articles be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States, all or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes as part of the said Constitution—VIZ.

Articles in addition to, and amendment of, the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

ARTICLE THE FIRST.

After the first enumeration, required by the first Article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which the pro-

portion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred, after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, not less than one Representative for every fifty thousand persons.

ARTICLE THE SECOND.

No law varying the compensation to the members of Congress, shall take effect, until an election of Representatives shall have intervened.

ARTICLE THE THIRD.

Congress shall make no law establishing religion or prohibiting the free exercise thereof, nor shall the rights of Conscience be infringed.

ARTICLE THE FOURTH.

The Freedom of Speech, and of the Press, and the right of the People peaceably to assemble, and consult for their common good, and to apply to the Government for a redress of grievances, shall not be infringed.

ARTICLE THE FIFTH.

A well regulated militia, composed of the body of the People, being the best security of a free State, the right of the People to keep and bear arms, shall not be infringed, but no one religiously scrupulous of bearing arms, shall be compelled to render military service in person.

ARTICLE THE SIXTH.

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 THE SEVENTH.

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 THE EIGHTH.

No person shall be subject, except in case of impeachment, to more than one trial, or one punishment for the same offence, 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 THE NINTH.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, 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 defence.

ARTICLE THE TENTH.

The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service in time of War or public danger) shall be by an Impartial Jury of the Vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or otherways infamous crime, unless on a presentment or indictment by a Grand Jury; but if a crime be committed in a place in the possession of an enemy, or in which an insurrection may prevail, the indictment and trial may by law be authorised in some other place within the same State.

ARTICLE THE ELEVENTH.

No appeal to the Supreme Court of the United States, shall be allowed, where the value in controversy shall not amount to one thousand dollars, nor shall any fact, triable by a Jury according to the course of the common law, be otherwise re-examinable, than according to the rules of common law.

ARTICLE THE TWELFTH.

In suits at common law, the right of trial by Jury shall be preserved.

ARTICLE THE THIRTEENTH.

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

ARTICLE THE FOURTEENTH.

No State shall infringe the right of trial by Jury in criminal cases, nor the rights of conscience, nor the freedom of speech, or of the press.

ARTICLE THE FIFTEENTH.

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

ARTICLE THE SIXTEENTH.

The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

ARTICLE THE SEVENTEENTH.

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

Teste,

JOHN BECKLEY, CLERK.

In SENATE, August 25, 1789.

Read and ordered to be printed for the consideration of the Senate.

Attest, SAMUEL A. OTIS, SECRETARY.

1. Printed: Broadside by Thomas Greenleaf (New York, [1789]) (Evans 22201). The list of proposed amendments in the New York *Daily Advertiser*, 26 August was reprinted thirty-nine times by 15 March 1790: Vt. (3), Mass. (5), R.I. (2), Conn. (4), N.Y. (8), N.J. (1), Pa. (7), Md. (2), Va. (4), N.C. (1), Ga. (2). The reprinting of the list in the Providence, R.I. *United States Chronicle*, 17 September, was prefaced: “Although in giving the Debates of Congress on the proposed Amendments to the New Constitution, the following have generally been noticed—yet, as the most ample and authentic Information on this truly important Subject, may reasonably be expected, we now lay before our Readers, THE WHOLE of the Amendments agreed on in the House of Representatives of the United States, and which there is every Reason to expect will pass the Senate.”

Senate Proceedings, Tuesday, 25 August 1789 (excerpts)¹

A message from the House of Representatives—

Mr. Beckley, their Clerk, brought up . . . The Resolve of the House of Representatives, that certain “Articles be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States”—and requested the concurrence of the Senate therein—

And he withdrew.² . . .

The Resolve of the House of Representatives of the 24th of August, was read as followeth:

[Here appears the House of Representatives resolutions of 24 August, immediately above.]

. . . On motion, to postpone the consideration of the Articles to the next session of Congress—

It passed in the Negative.

ORDERED, That Monday next be assigned to take them under consideration.

1. *Journal of the First Session of the Senate of the United States . . .* (New York, 1789) (Evans 22207), 102–6. Hereafter cited as *Senate Journal*.

2. These two sentences from the *Senate Journal* were printed in the New York *Daily Gazette* on 15 and 16 December.

Senate Proceedings, Wednesday, 2 September 1789¹

The Resolve of the House of Representatives of the 24th of August, one thousand seven hundred and eighty nine, “That certain Articles be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States”—was taken into consideration—

And on motion, To amend this clause in the first Article, proposed by the House of Representatives, to wit:

“After the first enumeration required by the first Article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred Representatives”—by striking out “one” and inserting TWO, between the words “amount” and “hundred”—

The Yeas and Nays being required by one fifth of the Senators present,

Mr. Bassett,		Nay.
Mr. Butler,		Nay.
Mr. Carroll,		Nay.
Mr. Dalton,	Yea.	
Mr. Ellsworth,		Nay.
Mr. Elmer,		Nay.
Mr. Gunn,	Yea.	
Mr. Grayson,	Yea.	
Mr. Henry,		Nay.
Mr. Johnson,		Nay.
Mr. Izard,		Nay.
Mr. King,	Yea.	
Mr. Lee,	Yea.	
Mr. Morris,		Nay.
Mr. Paterson,		Nay.
Mr. Read,		Nay.
Mr. Schuyler,	Yea.	
Mr. Wingate,		Nay.
Nays,		12.
Yeas,		6.

So it passed in the Negative.

On motion, To adopt the first Article, proposed by the Resolve of the House of Representatives, amended as follows, to strike out these words,—

“After which the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred, after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor less than one Representative to every fifty thousand persons”—And to substitute the following clause after the words “One hundred,” to wit:

“To which number one Representative shall be added for every subsequent increase of forty thousand, until the Representatives shall amount

to two hundred, to which one Representative shall be added for every subsequent increase of sixty thousand persons.”

It passed in the Affirmative.

The Senate adjourned to 11 o'clock to-morrow.

1. *Senate Journal*, 114–15. Printed in the *New York Daily Gazette*, 18 December.

Senate Proceedings, Thursday, 3 September 1789 (excerpts)¹

The Senate assembled, Present as yesterday. And resumed the consideration of the Resolve of the House of Representatives of the 24th of August, upon the proposed Amendments to the Constitution of the United States. . . .

On motion, To amend the third Article, to read thus—

“Congress shall make no law establishing any particular denomination of religion in preference to another, or prohibiting the free exercise thereof, nor shall the rights of conscience be infringed”—

It passed in the Negative.

On the question upon the third Article as it came from the House of Representatives—

It passed in the Negative.

On motion, To adopt the third Article proposed in the Resolve of the House of Representatives, amended by striking out these words—

“Nor shall the rights of conscience be infringed”—

It passed in the Affirmative.

On the fourth Article it was moved to insert these words,—“To instruct their Representatives,” after the words “Common good”—

And the Yeas and Nays being required by one fifth of the Senators present,

Mr. Bassett,		Nay.
Mr. Carroll,		Nay.
Mr. Dalton,		Nay.
Mr. Ellsworth,		Nay.
Mr. Elmer,		Nay.
Mr. Grayson,	Yea.	
Mr. Gunn,		Nay.
Mr. Henry,		Nay.
Mr. Johnson,		Nay.
Mr. Izard,		Nay.
Mr. King,		Nay.
Mr. Lee,	Yea.	
Mr. Morris,		Nay.

Mr. Paterson,	Nay.
Mr. Read,	Nay.
Mr. Wingate,	Nay.
Nays,	14.
Yeas,	2.

So it passed in the Negative.

On motion, To insert these words after “Press,”—“In as ample a manner as hath at any time been secured by the common law”—
 It passed in the Negative.

On motion, To strike out the words “And consult for their common good and,”
 It passed in the Negative.

And it was agreed, that the further consideration of this Article be postponed. . . .
 The Senate adjourned to 11 o’clock to-morrow.

1. *Senate Journal*, 116–17. The New York *Daily Gazette*, 19 December, printed much of Senate Proceedings.

Senate Proceedings, Friday, 4 September 1789¹

The Senate proceeded in the consideration of the Resolve of the House of Representatives of the 24th of August, on “Articles to be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States.”

On motion, To adopt the fourth Article proposed by the Resolve of the House of Representatives, to read as followeth,

“That Congress shall make no law, abridging the freedom of Speech, or of the Press, or the right of the People peaceably to assemble and consult for their common good, and to petition the Government for a redress of grievances,”

It passed in the Affirmative.

On motion, Upon the fifth Article, to subjoin the following proposition, to wit:

“That standing armies, in time of peace, being dangerous to Liberty, should 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.—That no standing army or regular troops shall be raised in time of peace, without the consent of two thirds of the Members present in both Houses, and that no soldier shall be inlisted for any longer term than the continuance of the war.

And the Yeas and Nays being required by one fifth of the Senators present,

Mr. Butler,	Yea.	
Mr. Carroll,		Nay.
Mr. Dalton,		Nay.
Mr. Ellsworth,		Nay.
Mr. Elmer,		Nay.
Mr. Gunn,	Yea.	
Mr. Grayson,	Yea.	
Mr. Henry,	Yea.	
Mr. Johnson,		Nay.
Mr. King,		Nay.
Mr. Lee,	Yea.	
Mr. Paterson,		Nay.
Mr. Read,		Nay.
Mr. Schuyler,		Nay.
Mr. Wingate,	Yea.	
Nays,		9.
Yeas,		6.

So it passed in the Negative.

On motion, To adopt the fifth Article of the Amendments proposed by the House of Representatives, amended to read as followeth—

“A well regulated militia, being the best security of a free State, the right of the people to keep and bear arms, shall not be infringed—

It passed in the Affirmative.

On motion, To adopt the sixth Article of Amendment proposed by the House of Representatives—

It passed in the Affirmative.

On motion, To adopt the seventh Article of Amendments proposed by the House of Representatives—

It passed in the Affirmative.

On motion, To adopt the eighth Article of Amendments proposed by the House of Representatives, striking out these words,—“Except in case of impeachment to more than one trial or one punishment,” and substitute the following words—

“Be twice put in jeopardy of life and limb by any public prosecution”—

It passed in the Affirmative.

On motion, To adopt the ninth Article of Amendments proposed by the House of Representatives—

It passed in the Affirmative.

On motion, To adopt the tenth Article amended by striking out all the clauses in the Article, except the following:

“No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment by a Grand Jury,”

It passed in the Affirmative.

On motion, To insert in lieu of the eleventh Article—

“The Supreme Judicial Federal Court, shall have no jurisdiction of causes between citizens of different States, unless the matter in dispute, whether it concerns the realty or personalty, be of the value of three thousand dollars, at the least: Nor shall the Federal Judicial Powers extend to any actions between citizens of different States, where the matter in dispute, whether it concerns the realty or personalty is not of the value of fifteen hundred dollars, at the least—And no part, triable by a Jury according to the course of the common law, shall be otherwise re-examinable, than according to the rules of common law”—

It passed in the Negative.

On motion, To adopt the eleventh Article amended to read as follows—

“No fact, triable by a Jury according to the course of common law, shall be otherwise re-examinable in any court of the United States, than according to the rules of common law”—

It passed in the Affirmative.

The Senate adjourned until 11 o'clock on Monday morning.

1. *Senate Journal*, 116–17. Printed in the New York *Daily Gazette*, 18 and 19 December.

Senate Proceedings, Monday, 7 September 1789¹

The Senate resumed the consideration of the Resolve of the House of Representatives of the 24th of August, on “Articles to be proposed to the Legislatures of the several States as Amendments to the Constitution of the United States.”

On motion, To adopt the twelfth Article of the Amendments, proposed by the House of Representatives, amended by the addition of these words to the Article, to wit: “Where the consideration exceeds twenty dollars,”

It passed in the Affirmative.

On motion, To adopt the thirteenth Article of the Amendments proposed by the House of Representatives—

It passed in the Affirmative.

On motion, To adopt the fourteenth Article of the Amendments proposed by the House of Representatives—

It passed in the Negative.

In the consideration of the fifteenth Article, proposed by the House of Representatives—

On motion, To add the following to the proposed Amendments, to wit:

“That the general Government of the United States ought never to impose direct taxes but where the monies arising from the duties, impost, and excise, are insufficient for the public exigencies, nor then until Congress shall have made a requisition upon the States to assess, levy, and pay their respective proportions of such requisitions; and in case any State shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess and levy such State’s proportion, together with interest thereon at the rate of six per cent. per annum, from the time of payment prescribed by such requisition”—

It passed in the Negative.

On motion, To add the following to the proposed Amendments, to wit:

“That the third section of the sixth Article of the Constitution of the United States, ought to be amended by inserting the word OTHER between the words “No” and “Religious”—

It passed in the Negative.

On motion, To add the following Amendment to the Constitution of the United States, to wit:

“That Congress shall not exercise the powers vested in them by the fourth Section of the first Article of the Constitution of the United States, but in cases where a State shall neglect or refuse to make regulations therein mentioned, or shall make regulations subversive of the Rights of the People, to a free and equal Representation in Congress, agreeably to the Constitution”—

It passed in the Negative.

On motion, To subjoin the following to the Amendments proposed by the House of Representatives, to wit:

“That Congress shall not erect any company of Merchants with exclusive advantages of Commerce”—

It passed in the Negative.

On motion, To subjoin the following to the Amendments proposed by the House of Representatives, to wit:

“That Congress shall at no time consent that any person holding an Office of trust or profit, under the United States, shall accept of a title of Nobility, or any other Title or Office, from any king, prince, or foreign State”—

It passed in the Negative.

On motion, To subjoin the following to the Amendments proposed by the House of Representatives, to wit:

“That no person, indebted to the United States, shall be entitled to a seat in either branch of the Legislature”—

It passed in the Negative.

On motion, To adopt the fifteenth Article of Amendments to the Constitution of the United States, proposed by the House of Representatives—

It passed in the Affirmative.

On motion, To adopt the sixteenth Article of Amendments to the Constitution of the United States, proposed by the House of Representatives—

It passed in the Negative.

On motion, To amend the seventeenth Article, by inserting the word, EXPRESSLY, before the word “delegated”—

It passed in the Negative.

On motion, To adopt the seventeenth Article of Amendments to the Constitution of the United States, proposed by the House of Representatives, to read as follows,

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.”

It passed in the Affirmative.

On motion, To amend the preamble of the Resolve—

A motion was made, To postpone the further consideration thereof until to-morrow—And,

It passed in the Affirmative.

The Senate adjourned to 11 o'clock to-morrow.

1. *Senate Journal*, 121–23. The New York *Daily Gazette*, 19 December, printed the first and last sentences from the *Senate Journal*.

Senate Proceedings, Tuesday, 8 September 1789¹

The SENATE assembled,

Present as yesterday,

And proceeded in the consideration of the Resolve of the House of Representatives of the 24th of August, “On Articles to be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States.”

On motion, To amend the Preamble to the Amendments proposed by the House of Representatives by preceding the same as follows, to wit:

“The Conventions of a number of the States having, at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added; and as extending the grounds of public confidence in the Government, will best insure the beneficent ends of its institution” —

It passed in the Affirmative.

On motion, To amend the Preamble by striking out these words, lines 6th and 7th, “Deeming it necessary,” and inserting instead thereof “Concurring” —

It passed in the Affirmative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That there are certain natural rights, of which men, when they form a social compact, cannot deprive or divest their posterity, among which are the enjoyment of life and liberty, with the means of acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

That all power is naturally vested in, and consequently derived from the people; that Magistrates, therefore, are their Trustees and Agents, and at all times amenable to them.”

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That Government ought to be instituted for the common benefit, protection, and security of the people; and that the doctrine of non-resistance against arbitrary power and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.”²

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That no man or set of men are entitled to exclusive or separate public emoluments or privileges from the community, but in consideration of public services, which not being descendible, neither ought

the offices of Magistrate, Legislator, or Judge, or any other public Officer to be hereditary.”

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That the Legislative, Executive, and Judiciary Powers of Governments should be separate and distinct, and that the members of the two first may be restrained from oppression by feeling and participating the public burthens, they should, at fixed periods, be reduced to a private station, return into the mass of the people, and the vacancies be supplied by certain and regular elections; in which all or any part of the former members to be eligible or ineligible, as the rules of the Constitution of Government, and the laws, shall direct”—

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“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”—

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“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”—

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“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”—

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“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”—

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That a regular statement and account of the receipts and expenditures of all public money shall be published, at least, once in every year”—

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That no commercial Treaty shall be ratified without the concurrence of two thirds of the whole number of the members of the Senate; and no Treaty, ceding, contracting, restraining or suspending the territorial rights or claims of the United States, or any of them or their, or any of their rights or claims to fishing in the American Seas, or navigating the American Rivers, shall be 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”—

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That no navigation law, or law regulating commerce, shall be passed without the consent of two thirds of the members present in both Houses”—

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“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”—

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“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”—

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“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”—

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

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

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That no person shall be capable of being President of the United States, for more than eight years in any term of sixteen years”—

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“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 Powers 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"—

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“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”—

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That some tribunal, other than the Senate, be provided for trying impeachments of Senators”—

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

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

It passed in the Negative.

ORDERED, That the further consideration of the Resolve of the House of Representatives on the Articles of Amendment be postponed until to-morrow.

1. *Senate Journal*, 123–27. The New York *Daily Gazette*, 21 December, printed much of the Senate proceedings.

2. This provision opposing the doctrine of non-resistance appeared in the Maryland and New Hampshire declarations of rights. It was also included in the amendments proposed by the Virginia ratifying Convention in June 1788.

Senate Proceedings, Wednesday, 9 September 1789¹

The SENATE assembled,
Present as yesterday.

Proceeded in the consideration of the Resolve of the House of Representatives of the 24th of August, “On Articles to be proposed to the Legislatures of the several States as Amendments to the Constitution of the United States”—And

On motion, To amend Article the third, to read as follows:

“Congress shall make no law establishing articles of faith or a mode of worship, or prohibiting the free exercise of religion, or abridging the freedom of speech, or the press, or the right of the people peaceably to assemble, and petition to the Government for the redress of grievances”—

It passed in the Affirmative.

On motion, To strike out the fourth Article,

It passed in the Affirmative.

On motion, To amend Article the fifth, by inserting these words, “For the common defence.” next to the words “Bear arms”—

It passed in the Negative.

On motion, To strike out of this Article, line the second, these words, “The best,” and insert in lieu thereof “Necessary to the”

It passed in the Affirmative.

On motion, On Article the fifth, to strike out the word “Fifth,” after “Article the,” and insert “Fourth”—

And to amend the Article to read as follows,

“A well regulated militia being the security of a free State, the right of the people to keep and bear arms, shall not be infringed”—

It passed in the Affirmative.

On motion, To alter Article the sixth so as to stand Article the fifth, and Article the seventh so as to stand Article the sixth, and Article the eighth so as to stand Article the seventh—

It passed in the Affirmative.

On motion, That this last mentioned Article be amended to read as follows: “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 to be put in jeopardy of life or limb, for the same offence, 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”—

It passed in the Affirmative.

On motion, To strike out from the ninth Article the word “Ninth,” and insert eighth—

It passed in the Affirmative.

On motion, To strike out the tenth and the eleventh Articles—

It passed in the Affirmative.

On motion, To strike out of the twelfth Article the word “Twelfth,” and insert ninth—

It passed in the Affirmative.

And on motion, To amend this Article, to read as follows:

“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”—

It passed in the Affirmative.

On motion, To reconsider Article the tenth, and to restore these words, to wit:

“The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger) shall be by an impartial Jury of the vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites”—

And the Yeas and Nays being required by one fifth of the Senators present,

Mr. Bassett,	Yea.	
Mr. Carroll,		Nay.
Mr. Dalton,	Yea.	
Mr. Ellsworth,		Nay.
Mr. Grayson,	Yea.	
Mr. Gunn,	Yea.	
Mr. Henry,	Yea.	
Mr. Johnson,		Nay.
Mr. Izard,		Nay.
Mr. King,		Nay.

Mr. Lee,	Yea.	
Mr. Morris,		Nay.
Mr. Paterson,	Yea.	
Mr. Read,		Nay.
Mr. Schuyler,	Yea.	
Mr. Wingate,		Nay.
Yeas,		8.
Nays,		6.
So the question was lost.		

On motion, To number the remaining Articles agreed to by the Senate, tenth, eleventh and twelfth, instead of the numbers affixed by the Resolve of the House of Representatives—

It passed in the Affirmative.

RESOLVED, That the Senate do concur in the Resolve of the House of Representatives, on “Articles to be proposed to the Legislatures of the States, as Amendments to the Constitution of the United States,” with the Amendments, two thirds of the Senators present concurring therein.

ORDERED, That the Secretary do carry a Message to the House of Representatives accordingly.

The Senate adjourned to 11 o’clock to-morrow.

1. *Senate Journal*, 129–31. The *New York Daily Advertiser*, 15 September, announced that “The Senate sent down the bill to amend the Constitution of the United States, with amendments—Ordered, that it lie on the table, and that copies of those amendments be printed for the use of the members.” Reprinted five times by 19 October: Mass. (1), N.Y. (2), Pa. (1), Va. (1). The *Gazette of the United States*, 16 September, printed a variation: “The amendments proposed by the Senate to the resolution of the House providing for amendments to the Constitution, were read, and on motion it was voted that a number of copies be struck off for the use of the members.” Reprinted thirteen times by 1 October: Mass. (1), Conn. (1), N.Y. (2), Pa. (4), Md. (2), Va. (3). The *New York Daily Gazette*, 22 December, printed much of the Senate proceedings.

House Proceedings, Thursday, 10 September 1789¹

A message was received from the senate, by mr. Otis, their secretary, informing the house, that the senate have agreed to the resolution of this house, of the 2d ultimo, containing certain articles to be proposed by congress, to the legislatures of the several states, as amendments to the constitution of the United States, with several amendments; to which they desire the concurrence of this house.

1. Printed: *Congressional Register*, II, 403.

Newspaper Report of House Proceedings Monday, 14 September 1789¹

The Senate sent down the bill to amend the Constitution of the United States, with amendments—Ordered that it lie on the table, and that copies of those amendments be printed for the use of the members.²

1. Printed: New York *Daily Advertiser*, 15 September. Reprinted five times by 19 October: Mass. (1), N.Y. (2), Pa. (1), Va. (1). Another version of these proceedings appeared in the *Gazette of the United States*, 16 September, which was reprinted ten times by 1 October: Conn. (1), N.Y. (2), Pa. (4), Md. (2), Va. (1).

2. For the list of amendments sent to the House by the Senate, see Legislative Histories, DHFFC, IV, 45–47.

Newspaper Report of House Proceedings Tuesday, 15 September 1789¹

The house proceeded to consider the amendments made by the senate to the bill for amending the constitution of the United States; some of which they negatived and others they concurred in; but not having time to go thro' the same—adjourned.

1. Printed: New York *Daily Advertiser*, 21 September. Reprinted twenty-five times by 16 November: N.H. (1), Mass. (3), Conn. (3), N.Y. (7), Pa. (5), Md. (2), Va. (5). The *Massachusetts Centinel*, 26 September, reported that “The AMENDMENTS, as amended by the Senate, were yesterday brought on the carpet, and *again* amended.—What the Senate has done, does not suit—I believe it will be extremely difficult to obtain a coincidence of sentiment on this subject.” Reprinted in the *New Hampshire Gazette*, 1 October.

House Proceedings, Saturday, 19 September 1789¹

The house then took into consideration the amendments to the constitution, as amended by the senate; and, after some time spent thereon, the business was postponed till to-morrow.

1. Printed: *Congressional Register*, II, 422. The New York *Daily Advertiser*, 21 September, reported that “The House proceeded to consider the amendments made by the Senate to the bill for amending the Constitution of the United States; some of which they negatived and others they concurred in; but not having time to go thro' the same—adjourned.” Reprinted twenty-six times by 16 November: N.H. (1), Mass. (3), Conn. (3), N.Y. (7), Pa. (5), Md. (2), Va. (5).

Senate Proceedings, Monday, 21 September 1789 (excerpts)¹

A Message from the House of Representatives—

Mr. Beckley, their Clerk, brought up a Resolve of the House of this date, to agree to the 2d, 4th, 8th, 12th, 13th, 16th, 18th, 19th, 25th,

and 26th Amendments proposed by the Senate, “To Articles of Amendment to be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States,” and to disagree to the 1st, 3d, 5th, 6th, 7th, 9th, 10th, 11th, 14th, 15th, 17th, 20th, 21st, 22d, 23d, and 24th Amendments: Two thirds of the members present concurring on each vote: And “That a conference be desired with the Senate on the subject matter of the Amendments disagreed to,” and that Mr. Madison, Mr. Sherman, and Mr. Vining, be appointed managers of the same, on the part of the House of Representatives—

And he withdrew. . . .

The Senate proceeded to consider the Message of the House of Representatives disagreeing to the Amendments made by the Senate “To Articles to be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States”—And

RESOLVED, That the Senate do recede from their third Amendment, and do insist on all the others.

RESOLVED, That the Senate do concur with the House of Representatives in a conference on the subject matter of disagreement on the said Articles of Amendment, and that Mr. Ellsworth, Mr. Carroll, and Mr. Paterson, be managers of the conference on the part of the Senate.

ORDERED, That the Secretary do carry the Bill, entitled, “An Act for allowing a Compensation to the President and Vice President of the United States,” together “With the Articles to be proposed as Amendments to the Constitution of the United States,” to the House of Representatives, and acquaint them with the proceedings of the Senate thereon.

1. Printed: *Congressional Register*, II, 423–24. The *New York Daily Advertiser*, 22 September, reported under the subheading “BUSINESS OF YESTERDAY.” that “The amendments of the senate to the bill for amending the Constitution of the United States, were taken into consideration. Some were agreed to, and others nonconcurring; on which a conference was requested by the house.” This report was reprinted eleven times by 2 November: Mass. (1), Conn. (3), N.Y. (3), Pa. (2), Md. (1), Va. (1). The *Gazette of the United States*, 23 September, printed a variation: “The amendments of the Senate to the amendments proposed by the House to the Constitution, were again taken up—Some were agreed to, and others nonconcurring: Messrs *Madison*, *Sherman*, and *Vining* were appointed a committee to confer with a committee of the Senate on those amendments in which the two Houses do not agree.” This report was reprinted thirteen times by 16 November: N.H. (1), Mass. (3), Conn. (1), N.Y. (3), Pa. (2), Va. (3).

House Proceedings, Monday, 21 September 1789 (excerpts)¹

A farther message was received from the senate, informing the house, that the senate recede from their fourth amendment to the judges, and attorney-general’s compensation bill; also, from their third amendment,

to the articles of amendment to the constitution of the United States; and do insist on the other amendments to the said articles disagreed to by the house; that they have agreed to the conference on this subject. . . .

The house resumed the consideration of the amendments proposed by the senate to the several articles of amendments to the constitution of the United States; some of which they agreed to, and disagreed to others, two-thirds of the members present concurring in each vote: Whereupon, a committee of conference was desired with the senate, on the subject matter of the amendments disagreed to; and messrs. Madison, Sherman, and Vining, were appointed managers on the part of the house.

1. Printed: *Congressional Register*, II, 437–38. Two brief reports of the House proceedings appeared in the *New York Daily Advertiser*, 25 September, and the *Gazette of the United States*, 26 September. The *Advertiser* version was reprinted eleven times by 21 October: N.Y. (4), Pa. (4), Va. (3). The *Gazette of the United States* version was reprinted eighteen times by 16 November: N.H. (1), Mass. (6), R.I. (2), Conn. (4), N.Y. (2), Pa. (1), Va. (2).

Senate Proceedings, Thursday, 24 September 1789 (excerpts)¹

The SENATE assembled,
Present as yesterday.

Mr. Ellsworth, on behalf of the managers of the conference on “Articles to be proposed to the several States as Amendments to the Constitution of the United States,” reported as follows:

That it will be proper for the House of Representatives to agree to the said Amendments proposed by the Senate, with an Amendment to their fifth Amendment, so that the third Article shall read as follows: “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 petition the Government for a redress of Grievances:” And with an Amendment to the fourteenth Amendment proposed by the Senate, so that the eighth Article, as numbered in the Amendments proposed by the Senate, shall read as follows; “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial BY AN IMPARTIAL JURY OF THE DISTRICT WHEREIN THE CRIME SHALL HAVE BEEN COMMITTED, AS THE 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, and to have compulsory process for obtaining witnesses in his favor, and to have the assistance of Counsel for his defence.”

The managers were also of opinion, that it would be proper for both Houses to agree to amend the first Article, by striking out the word

“Less” in the last line but one, and inserting in its place the word “More,” and accordingly recommend that the said Article be reconsidered for that purpose.

ORDERED, That the Report lie for consideration. . . .

A Message from the House of Representatives—

Mr. Beckley, their Clerk, brought up the Amendments to the “Articles to be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States;” and informed the Senate, that the House of Representatives had receded from their disagreement to the 1st, 3d, 5th, 6th, 7th, 9th, 10th, 11th, 14th, 15th, 17th, 20th, 21st, 22d, 23d, and 24th Amendments, insisted on by the Senate: Provided, that the “Two Articles, which by the Amendments of the Senate are now proposed to be inserted as the third and eighth Articles,” shall be amended to read as followeth:

Article the Third. “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 petition the Government for a redress of Grievances.”

Article the Eighth. “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 defence.”

And provided also, That the first Article be amended by striking out the words “Less”, in the last place of the said first Article, and inserting in lieu thereof the word “More.” . . .

And he withdrew.

1. *Senate Journal*, 145–46. The *Gazette of the United States*, 23 September, printed the list of proposed amendments, which was then reprinted twenty-four times by 28 November: Vt. (2), N.H. (3), Mass. (5), R.I. (3), Conn. (4), N.Y. (1), N.J. (1), Pa. (1), Md. (1), Va. (1), Ga. (2), and in the January 1790 issue of the *Philadelphia American Museum* (Appendix, Volume 7).

House Proceedings, Thursday, 24 September 1789¹

The house proceeded to consider the report of a committee of conference, on the subject matter of the amendments, depending between the two houses, to the several articles of amendment to the constitution

of the United States, as proposed by this house: Whereupon, it was resolved, that they recede from their disagreement to all the amendments; provided that the two articles, which, by the amendments of the senate, are now proposed to be inserted as the third and eighth articles, shall be amended to read as follows:

Art. 3. Congress, shall make no law respecting an establishment of religion, or prohibiting a 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.

Art. 8. 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 defence.

And provided also, that the first article be amended by striking out the word “less,” in the last place of the said article, and inserting, in lieu thereof, “more.”

On the question, that the house agree to the alteration of the eighth article, in the manner aforesaid, the yeas and nays were called, and are:

Yeas—messrs. *Ames, Baldwin, Benson, Boudinot, Brown, Cadwallader, Carroll, Clymer, Contee, Fitzsimons, Foster, Gale, Gilman, Goodhue, Griffin, Hartley, Lee, Leonard, Madison, Moore, Muhlenberg, Parker, Partridge, Schureman, Scott, Seney, Sherman, Sylvester, Sinnickson, Smith, (of M.) Smith, (of S. C.) Stone, Thatcher, Trumbull, Vining, White and Wynkoop*—37.

Nays—messrs. *Bland, Burke, Coles, Floyd, Gerry, Grout, Hathorn, Jackson, Livermore, Matthews, Page, Van Renssellaer, Sumpter and Tucker*—14.

So the question was determined in the affirmative.

On motion, it was then resolved, that the president of the United States be requested to transmit to the executives of the several states which have ratified the constitution, copies of the amendments proposed by congress, to be added thereto; and like copies to the executives of the states of Rhode-Island and North-Carolina.²

1. Printed: *Congressional Register*, II, 437–38.

2. The Senate agreed to this resolution on 26 September (below). On 2 October President Washington sent a circular letter to the state executives enclosing Congress' twelve amendments.

Senate Proceedings, Friday, 25 September 1789 (excerpts)¹

A Message from the House of Representatives—

Mr. Beckley, their Clerk, informed the Senate, that the House of Representatives had passed a Resolve, requesting, “The President of

the United States to transmit to the Executives of the several States, which have ratified the Constitution, copies of the Amendments proposed by Congress to be added thereto: And like copies to the Executives of the States of Rhode-Island and North-Carolina” —

And that the House requested the concurrence of the Senate therein:

...

The Senate proceeded to consider the Message from the House of Representatives of the 24th, with Amendments to the Amendments of the Senate, to “Articles to be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States” — And

RESOLVED, That the Senate do concur in the Amendments proposed by the House of Representatives, to the Amendments of the Senate.

ORDERED, That the Secretary do carry a Message to the House of Representatives accordingly.

1. *Senate Journal*, 150–51.

House Proceedings, Friday, 25 September 1789¹

A message was received from the senate, informing that the senate agree to the amendments proposed by this house, to their amendments to the several articles of amendment to the constitution of the United States.

1. Printed: *Congressional Register*, II, 441. Two brief accounts of the House receipt of the Senate’s message were printed. The *Gazette of the United States*, 26 September, stated that “A message was received from the Senate, with the amendments to the Constitution as last amended by the House, in which the Senate has concurred.” This report was reprinted nineteen times by 14 November: N.H. (2), Mass. (3), R.I. (1), Conn. (4), N.Y. (4), Pa. (2), Md. (1), Va. (1), N.C. (1). The New York *Daily Advertiser*, 26 September, reported that “A message was received from the Senate acquainting the House that they had considered the amendments proposed by the House to the amendments made by the Senate, to the bill for amending the Constitution, and had concurred in the same.” This report was reprinted six times by 15 October: Conn. (1), N.Y. (1), Pa. (3), Va. (1).

Senate Proceedings, Saturday, 26 September 1789¹

The Senate proceeded to consider the Resolve of the House of Representatives of the 24th instant, to wit:

“In the HOUSE of REPRESENTATIVES,
Thursday the 24th September, 1789.

“RESOLVED, By the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested to transmit to the executives of the United States, which have ratified the Constitution, copies of the Amendments proposed by Congress, to be added thereto; and like copies to the executives of the States of Rhode-Island and North-Carolina.”

RESOLVED, That the Senate do concur in this Resolution.

ORDERED, That the Secretary do carry a Message to the House of Representatives accordingly.

1. *Senate Journal*, 154–55.

House Proceedings, Monday, 28 September 1789 (excerpts)¹

A message from the senate was received, communicating to the house, that they had agreed to the resolution desiring the president of the United States to recommend a day of general thanksgiving: Also, to the resolution desiring him to transmit to the executives of the several states of the union; and also to the executives of the states of Rhode-Island and North-Carolina, copies of the amendments agreed to by congress to the constitution of the United States.² . . .

A number of bills, and the proposed amendments to the constitution, were brought in engrossed, and signed:

After which the house adjourned.

1. Printed: *Congressional Register*, II, 451–56.

2. On 2 October 1789 President Washington sent a cover letter to each state with Congress' twelve amendments. Washington wrote: "In pursuance of the enclosed resolution I have the honor to transmit to Your Excellency a copy of the amendments proposed to be added to the Constitution of the United States."

U.S. Congress: Twelve Proposed Amendments to the Constitution 26 September 1789¹

Congress OF THE United States
begun and held at the City of New-York, on
Wednesday the fourth of March,
one thousand seven hundred and eighty nine.

THE Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution.

RESOLVED by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following Articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all, or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution; vizt.

ARTICLES in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

Article the first . . . After the first enumeration required by the first article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which, the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred, after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor more than one Representative for every fifty thousand persons.

Article the second . . . No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

Article the third . . . 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 the fourth . . . 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 the fifth . . . 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 the sixth . . . 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 the seventh . . . 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 offence 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 the eighth . . . 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 defence.

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

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

Article the twelfth . . . 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.

Frederick Augustus Muhlenberg,
Speaker of the House of Representatives
John Adams, Vice-President of the United States,
and President of the Senate

ATTEST, John Beckley, Clerk of the House of Representatives.
Sam. A Otis Secretary of the Senate

1. MS broadside, DNA. Congress engrossed fourteen manuscript broadsides listing the proposed twelve amendments. Signed by Frederick Augustus Muhlenberg as speaker of the House of Representatives, and John Adams as president of the Senate, the broadsides were to be sent to each of the eleven ratifying states, to North Carolina, and to Rhode Island, and one to be retained by Congress. The ellipses are in the original and do not denote omitted material.

The New York *Daily Advertiser*, 1 October, printed a list of acts and resolves passed by Congress that included: "A resolution proposing amendments to the constitution of the United States." This brief item was reprinted ten times by 28 October: R.I. (2), N.Y. (4), Pa. (3), Ga. (1). Another version of the list was printed in the *Pennsylvania Packet*, 6 October, and reprinted five times by 22 October: Va. (2), N.C. (1), Ga. (2). On 2 October the New York *Daily Advertiser* printed Congress' twelve amendments which was reprinted ten times by 28 November: R.I. (1), N.Y. (3), Pa. (3), Va. (1), N.C. (1), Ga. (1). On 5 October, the *Advertiser* printed an announcement that "This Day is Published, And to be sold by the Printers hereof, Price One Dollar, THE ACTS, Passed at the first session of the first Congress of the United States of America. To which is annexed a correct copy of the Constitution of the United States, and the amendments proposed by Congress to the same" (Evans 22189). The punctuation, capitalization, and format of this printed

version differs slightly from the manuscript broadside version of Congress' twelve amendments. Most significantly, however, the tenth amendment (which became the Eighth Amendment) of this printing uses the phrase "nor cruel and unusual imprisonments inflicted" instead of the word "punishments." One hundred and fifty copies of the twelve amendments were also printed by Bennett Wheeler in Providence on order of the Rhode Island Assembly (Evans 22202).

On 12 November 1789, Isaiah Thomas printed in his Worcester, *Massachusetts Spy*, an ad announcing the publication and sale "Wholesale and Retail" of his 1790 *Almanack* for Massachusetts, Connecticut, Rhode Island, New Hampshire, and Vermont. The almanack contained "The amendments to the New CONSTITUTION, agreed on by Congress, to be laid before the Legislatures of the several States. These Amendments are interesting to every individual in the Union." The *Massachusetts Spy* repeated the ad on 19 and 25 November and on 17 and 31 December, and 7 and 28 January 1790. Similar ads appeared in the Boston *Independent Chronicle* on 12 November and 10 December 1789, and in the Springfield, Mass., *Hampshire Chronicle* on 18 and 25 November and 2, 9, and 16 December.

House Committee Reports on Status of Amendments 20 May–29 July 1790

*House Proceedings, Thursday, 20 May 1790*¹

Mr. Steele laid the following motion, in substance, on the table. That a committee, to consist of a member from each state, be appointed to enquire into, and make report on the proceedings of the several states respecting the amendments proposed by Congress at their last session to the Constitution of the United States; also to report what further amendments are necessary; Mr. Steele added a few remarks to this motion which referred principally to the subject of elections, respecting which he said the "feelings of the people were tremblingly alive."

1. Printed: *Gazette of the United States*, 22 May. Reprinted thirteen times by 5 July: N.H. (2), Mass. (5), R.I. (1), Conn. (3), N.Y. (1), S.C. (1). Similar reports were printed in the *New York Daily Advertiser*, 21 May, and reprinted seven times by 15 June: N.Y. (1), Pa. (4), Md. (1), Va. (1). And in the *New York Weekly Museum*, 22 May, and reprinted four times by 28 July: Mass. (3), R.I. (1).

*House Proceedings, Thursday, 27 May 1790*¹

Mr. Steele's motion on the subject of amendments was taken up.

The motion was divided, and the first part, respecting the appointment of a committee to examine and report the decisions of the several states on the amendments proposed by Congress to the Constitution of the United States, was agreed to, and Mr. Steele, Mr. Moore, and Mr. Contee, were appointed. The other part, respecting additional amendments was negated.

1. Printed: *New York Journal*, 1 June. Reprinted ten times by 6 July: N.H. (1), Mass. (4), R.I. (1), Conn. (1), N.Y. (1), Va. (2). Other accounts appeared in the *Philadelphia Federal Gazette*, 29 May, and reprinted six times by 25 June: Conn. (1), Pa. (2), Md. (1), N.C. (1),

S.C. (1); *New York Packet*, 29 May (reprinted in the *Connecticut Journal*, 9 June); and *Albany Gazette*, 3 June (reprinted in the Lansingburgh, N.Y. *Federal Herald*, 7 June).

*House Proceedings, Thursday, 27 May 1790*¹

On a motion made and seconded,

“That a committee be appointed to examine into and report the decisions of the several States respectively, upon the Amendments to the Constitution of the United States, heretofore proposed by Congress; and that the committee be authorized to report what other and further amendments to the said Constitution are necessary to be recommended by Congress at present:”²

A division of the said motion was called for: Whereupon,

The first part of the said motion, in the words following, to wit: That a committee be appointed to examine into and report the decisions of the several States, respectively, upon the amendments of the Constitution heretofore proposed by Congress,” was, on the question put thereupon, agreed to by the House.

The latter part of the said motion, in the words following, to wit: “And that the committee be authorized to report what other and further amendments to the said Constitution, are necessary to be recommended by Congress at present,” was, on the question put thereupon, disagreed to by the House.

Ordered, That Mr. Steele, Mr. Moore, and Mr. Contee, be appointed a committee pursuant to the first part of the said motion.³

The several orders of the day were read, and postponed until tomorrow.

And then the House adjourned until to-morrow morning ten o’clock.

1. *Journal of the House of Representatives . . .* (New York, 1790) (Evans 22981), 225.

2. A report of this motion was printed in the Philadelphia *Federal Gazette*, 2 May, and reprinted six times by 25 June: Conn. (1), Pa. (2), Md. (1), N.C. (1), S.C. (1).

3. A report of this action was printed in the *New York Journal*, 1 June, and reprinted thirteen times by 6 July: N.H. (1), Mass. (4), R.I. (1), Conn. (2), N.Y. (3), Va. (2).

*House Proceedings, Wednesday, 28 July 1790*¹

Mr. Tucker moved that some order be taken upon the amendments to the present constitution, as proposed by the several states. This motion lies over.

1. Printed: Philadelphia *Federal Gazette*, 30 July. Reprinted seven times by 22 September: N.H. (1), Mass. (2), Pa. (3), Va. (1).

*House Proceedings, Thursday, 29 July 1790*¹

Mr. Steel, one of the committee appointed to examine into the proceedings of the several states, on the subject of the amendments pro-

posed by Congress to the Federal Constitution, reported that returns have been made by the eight states only, viz.

1st. A vote of the legislature of New-Hampshire, rejecting the second article of the said amendments and accepting all the rest.

2d. An act for the legislature of New-York, intituled, “An act for ratifying certain articles in addition to, and amendments of the constitution of the United States of America” proposed by Congress, whereby all the said articles, except the 2d are ratified.

3d. An act of the legislature of Pennsylvania, intituled, “An act declaring the assent of this state, to certain amendments of the constitution of the United States” whenever the 1st and 2d articles are passed, over in silence and all the others assented to.

4th. A resolution of the legislature of the state of Delaware, postponing the first article, and acceding to all the others.

5th. An act of the legislature of Maryland, intituled, “an act to ratify certain articles in addition to, and amendment of the constitution of the United States of America, proposed by Congress to the legislatures of the several states,” ratifying all the said articles.

6th. A resolution of the legislature of South Carolina, ratifying all the said articles.

7th. An act of the state of North-Carolina, intituled, “an act to ratify the amendments to the constitution of the United States,” ratifying all the said articles.

8th. An act of the state of Rhode-Island and Providence Plantations, intituled, “an act for ratifying certain articles as amendments to the constitution of the United States of America, and which were proposed by the Congress of the said states at their session in March, A.D. 1789, to the legislatures of the several states, pursuant to the 5th article of the aforesaid constitution,” whereby the whole of the said articles are assented to.

So that upon the whole it appears, that the first article has been agreed to by six states, the second by five, and all the others by eight.

1. Printed: Philadelphia *Federal Gazette*, 31 July. Reprinted seven times by 26 August: Pa. (5), Md. (1), S.C. (1). A similar account appeared in the *Gazette of the United States*, 31 July, which was reprinted thirty times by 22 September, and in the October 1790 issue of the *New York Magazine*. Two brief summaries appeared in the *New York Daily Gazette*, 30 July (reprinted twice in New York and twice in Pennsylvania by 2 August), and in the Boston *Independent Chronicle*, 5 August (reprinted in the Northampton, Mass., *Hampshire Gazette*, 11 August). The Journal of the House of Representatives for 29 July merely stated that Mr. Steele presented the committee’s report “which was read, and ordered to lie on the table” (*House Journal*, 285).

**STATE APPROVAL OF CONGRESS'
PROPOSED AMENDMENTS TO THE U.S. CONSTITUTION***

(In chronological order)

1. New Jersey, 20 November 1789
2. Maryland, 19 December 1789
3. North Carolina, 22 December 1789
4. South Carolina, 19 January 1790
5. New Hampshire, 25 January 1790
6. Delaware, 28 January 1790
7. New York, 27 February 1790
8. Pennsylvania, 10 March 1790
(first amendment, 20 September 1791)
9. Rhode Island, 11 June 1790
10. Vermont, 3 November 1791
11. Virginia, 15 December 1791
12. Massachusetts, 2 March 1939
13. Georgia (5 December 1789 rejects) (18 March 1939)
14. Connecticut 13 April 1939

*Congress ordered the printing of a pamphlet edition of the twelve amendments proposed in September 1789 and the ratification by each state. This eleven-page pamphlet was printed in Philadelphia by Childs & Swaine (Evans 46596) and was reprinted in the Philadelphia *Federal Gazette*, 3 March 1792 and the New York *Daily Advertiser*, 6 March 1792. The *Federal Gazette* printing ends after Vermont's ratification document with the statement: "*Deposited among the Rolls in the Office of the Secretary of state. TH: JEFFERSON, Secretary of State,*" which does not appear in the pamphlet edition.

X.
THE STATES RATIFY
CONGRESS' PROPOSED AMENDMENTS
TO THE CONSTITUTION

Introduction

After nearly four months of debate, Congress agreed to submit twelve amendments to the Constitution to the state legislatures for their approval. Fourteen one-page engrossed manuscripts of the amendments were prepared (one for each of the thirteen states and one for Congress) and signed by Speaker of the House of Representatives Frederick Augustus Muhlenberg and President of the Senate John Adams. At the request of Congress, President George Washington transmitted the amendments to the state executives asking them to forward the amendments to their state legislatures. On order of Congress, a 105-page edition of Congress' acts and the twelve proposed amendments was printed by Childs and Swaine. On 5 October 1789, the New York *Daily Advertiser* announced this publication that included the proposed amendments on pages 92–93. President Washington presumably sent copies of this pamphlet to the state executives. This edition (Evans 22189) incorrectly printed the Tenth Amendment (which became the Eighth Amendment) as prohibiting “cruel and unusual imprisonments inflicted” instead of “cruel and unusual punishments inflicted.” (This error also appeared in the 8-page printing of the amendments ordered by the Massachusetts General Court in 1790 printed by Thomas Adams, the state printer [Evans 22953]). A subsequent 11-page pamphlet 1792 edition by Childs and Swain corrected this error.

The ratification process usually began when the governors submitted messages to their legislatures accompanied by the public documents recently received. At least five state legislatures ordered the proposed amendments printed. The legislatures often debated the amendments in committees of the whole in which restrictive parliamentary rules were abandoned. Bills adopting some or all of the amendments were drafted and messages between legislative houses were exchanged before agreement was achieved. The bicameral legislatures of Connecticut and Massachusetts, in fact, could not agree on passing the same amendments, consequently neither state submitted certified exemplifications of the amendments that both houses had adopted.

New Jersey became the first state to adopt the amendments on 20 November 1789. Two weeks later, Georgia's legislature rejected the

amendments as premature, suggesting that amendments should only be adopted after experience demonstrated their need. Maryland and North Carolina ratified in December 1789—the latter only a month after its ratifying convention had adopted the Constitution. Three more states (South Carolina, New Hampshire, and Delaware) ratified the amendments in January 1790. Another three states (New York, Pennsylvania, and Rhode Island) ratified by June 1790. With the 1791 ratifications by Vermont and Virginia in November and December, respectively, the necessary three-quarters of the states adopted the amendments. By order of Congress, an eleven-page pamphlet was printed in Philadelphia containing Congress' twelve proposed amendments on pages 1 and 2 and the state ratifications filling the last nine pages. The information and formatting of the pamphlet was reprinted in the Philadelphia *Federal Gazette* on 3 March in three columns spread over two pages. Both the pamphlet and the *Federal Gazette* listed the state ratifications by date, sometimes, however, using the date of legislative passage and other times the date of certification by a state official. Thus, New Jersey, which was the first state to adopt the amendments on 20 November 1789, was listed as the ninth state to ratify under a 3 August 1790 certification date. Vermont was listed as the last state to ratify even though its ratification had preceded Virginia's by more than a month. Neither Virginia nor Vermont had a date of certification listed. Other newspapers printed the twelve amendments and the state ratifications. The New York *Daily Advertiser*, 6 March, and the Boston *Columbian Centinel*, 14, 17, and 21 March reproduced the *Federal Gazette's* formatting and continued to list New Jersey as the ninth ratifying state.

The Philadelphia *National Gazette*, 12 March 1792, printed the information from the pamphlet in a unique arrangement. On its first page, the *Gazette* printed a pair of double columns. Each paired column has the text of the amendment in the left-hand column with a list of the ratifying states (and their dates) in the right-hand column. At the end of the listing of amendments at the bottom of the double column appears an original chart that compiles the state actions on the amendments. The chart is titled "Amendments Ratified." All fourteen states are listed in the left-hand column arranged from north to south. Each of the eleven ratifying states is followed on the same line horizontally by the numbers of the amendments that they adopted. The space reserved for these numbers is left blank if the state did not ratify that particular amendment. No numbers appear in the horizontal rows reserved for Massachusetts, Connecticut, and Georgia—the three non-ratifying states. The *National Gazette's* original formatting is reprinted

in the Philadelphia *Freeman's Journal*, 14 March. On 1 March 1792 Secretary of State Thomas Jefferson notified the states that the final ten amendments had been adopted and were part of the Constitution. Another 175-page printing of the acts of Congress by Childs and Swaine in 1792 correctly listed New Jersey as the first state to ratify the amendments (Evans 24868). In a symbolic act, Georgia, Massachusetts, and Connecticut adopted the Bill of Rights in 1939, the sesquicentennial of its submission by Congress.

Section 10 of this volume contains the official actions taken by the states (in alphabetical order) in considering Congress' proposed amendments.

Connecticut 12–13 April 1939

Connecticut was one of three states that did not ratify any of Congress' proposed amendments to the Constitution in 1789–1791. Governor Samuel Huntington received Congress' proposed twelve amendments to the Constitution from President George Washington in early October 1789. The amendments appeared in the Hartford *Connecticut Courant* on 12 October. On 23 October, the state House of Representatives assigned 27 October to consider the proposed amendments. On that day, the House approved a bill ratifying all but the second amendment dealing with compensation for members of Congress. Supporting all the amendments, the Governor and Council rejected the House bill. Both houses appointed members to a conference committee, but neither house changed its original position. The Council voted that further consideration of the amendments be referred to the legislature at its May 1790 session.

On 17 May 1790, the House voted to re-consider the amendments the next day at which time it approved another bill that rejected Congress' first two amendments while ratifying the last ten. Three days later, on 21 May, the Council rejected the House bill, preferring a bill that adopted all of the amendments. The House rejected the Council's draft bill. Again both houses appointed members to a conference committee. On 24 May, the Council rejected the conference committee's report sticking to its original position ratifying all of the amendments. Also on 24 May, the House changed its rules agreeing that the conference committee report could be debated. The House considered the conference committee report on the morning of 25 May, but refused to alter its previous decision.

On 16 October 1790, the House agreed to a bill rejecting all of the amendments. The Council then voted to refer the amendments to the legislature's May 1791 session. The House agreed to the postponement. No further consideration of the amendments is recorded until the legislature symbolically passed a joint resolution on 12–13 April 1939 adopting the first ten amendments to the Constitution. A copy of the resolution was sent to President Franklin D. Roosevelt on 25 April 1939.

House of Representatives Proceedings, Friday, 23 October 1789¹

Tuesday next is Assigned to take into consideration the Amendments proposed to the Constitution of the United States.

1. MS, Extracts from the House Journal, Connecticut State Library. (Hereafter cited as Ct.)

House of Representatives Proceedings, Tuesday, 27 October 1789¹

After Prayers & Roll Call:

Passed Bill ratifying the first third fourth fifth sixth seventh eight Ninth tenth Eleventh & Twelfth Articles of the Amendments proposed by the Congress of the United States holden at the City of New York on the fourth day of March 1789 to the Constitution of the United States.

1. MS, Extracts from the House Journal, Ct.

House of Representatives Proceedings, Wednesday, 28 October 1789¹

In the House of Representatives Mr. Dana & Mr. Ingersol are appointed a Committee to confer with such Gentlemen as the Honble Council shall appoint on the differing votes of the Houses on this Bill
Teste. Uriah Tracy Clerk

1. MS, House Journal, Ct. A similar entry is found in the Extracts from the House Journal, Ct. Also MS, Connecticut Archives, Revolutionary War, 1763–1789, 1st Series, Vol. 37, no. 302, Ct.

Council Proceedings, October 1789¹

John Chester Esqr. is appointed to confer with the Committee, of the House of Representatives, on the differing Votes of the Houses on the within Bill

Teste George Wyllys Secrety

1. MS, Connecticut Archives, Revolutionary War, 1763–1789, 1st Series, Vol. 37, no. 302, Ct.

Council Proceedings, Thursday, 29 October 1789¹

On Report of the Comtee. and Reconsideration, this House do, adhere to their first Vote on this Bill

Teste George Wyllys: Secrety.

1. MS, Connecticut Archives, Revolutionary War, 1763–1789, 1st Series, Vol. 37, no. 302, Ct.

Council Proceedings, Thursday, 29 October 1789¹

The further Consideration of this Bill is referred to the General Assembly of this State, to be holden at Hartford on the 2d Thursday of May next

Teste George Wyllys Secretary

1. MS, Connecticut Archives, Revolutionary War, 1763–1789, 1st Series, Vol. 37, no. 302, Ct.

New York Daily Advertiser, 5 November 1789 (excerpt)¹

Extract of a letter from Stratford; in Connecticut, dated Oct. 31.

“The legislature of Connecticut at their last session which expired on the 29th inst. took up the subject of amendments to the constitution; and a resolve of approbation and ratification of all, except the second article of amendments passed the house of representatives by large majorities. The council voted to postpone their determination upon them till the next session, which was agreed to. . . .”

1. Reprinted twenty-one times by 16 December: N.H. (2), Mass. (5), Conn. (1), N.Y. (2), N.J. (1), Pa. (4), Md. (1), Va. (4), N.C. (1).

House of Representatives Proceedings, Monday, A.M., 17 May 1790¹

Ordered that tuesday afternoon be assigned for Discussing the amendments to [the] Constitution of the United States

1. MS, House Journal, Ct.

**Proposed Bill Ratifying Amendments to the Constitution
18 May 1790¹**

The Congress of the United States begun and holden at the City of New York, on wednesday the fourth of March, AD: 1789 having proposed to the legislatures of the several States certain articles as amendments to the Constitution of the United States;

This Assembly do ratify as part of said constitution the first, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh & twelfth articles proposed as aforesaid—

Passed in the House of Representatives
Teste James Davenport Clerk

1. MS, Connecticut Archives, Revolutionary War, 1763–1789, 1st Series, Vol. 37, no. 302, Ct.

House of Representatives Proceedings, Tuesday, P.M., 18 May 1790¹

Pursuant to the Ordr. of the day—took into consideration the amendments to the Constitution of the United States Ratified by Bill the 2d. 3d. 4th. 5th. 6th. 7th. 8th 9th 10th 11th. & 12th. articles of sd. Amendments & Rejected the 1st. & 2d. Amendment—

1. MS, House Journal, Ct.

House of Representatives Proceedings, Tuesday, P.M., 18 May 1790¹

Passed bill in form for ratifying certain of the proposed amendments to the Constitution of the United States.

1. MS, House Journal, Ct.

Council Proceedings, Friday, 21 May 1790¹

Dissented to, in the upper House,
Teste George Wyllys Secrety

1. MS, Connecticut Archives, Revolutionary War, 1763–1789, 1st Series, Vol. 37, no. 302, Ct.

**Council Draft Resolution on Amendments to the Constitution
Friday, 21 May 1790¹**

Whereas the Senate & House of Representatives of the United States of America in Congress Assembled on Wednesday the fourth of March One Thousand seven hundred & eighty nine two thirds of both Houses concurring proposed to the Legislatures of the several States as amendments to the Constitution of the United States the following Articles all or any of which Articles when ratified by three fourths of the said Legislatures to be valid to all intents and purposes as part of the said Constitution vizt

[Congress' twelve proposed amendments appear here.]

This Assembly do assent to & ratify as part of the said Constitution all the Articles proposed as aforesaid—

pass'd, in the upper House
Teste George Wyllys Secrety.

1. MS, Connecticut Archives, Civil Officers, 1790–1820, Series 2, Vol. 22, doc. 4, Ct.

House of Representatives Proceedings, Friday, 21 May 1790¹

Dissented

In the House of Representatives
Test Uriah Tracy Clerk

1. MS, Connecticut Archives, Civil Officers, 1790–1820, Series 2, Vol. 22, doc. 4, Ct.

House of Representatives Proceedings, Friday, P.M., 21 May 1790¹

Appointed Majr. Phelps & Captn. Swift a Committee of Conference on differing votes on bill passed by this House for ratifying certain amendments to the constitution of the United States

Dissented to bill passed by Govr. & Council for ratifying the amendments to the Constitution of the United States

1. MS, House Journal, Ct. Also MS, Connecticut Archives, Revolutionary War, 1763–1789, 2nd Series, Vol. 22, no. 3, Ct.

Council Proceedings, Monday, 24 May 1790¹

Roger Newberry Esqr. is appointed to confer with such Gentlemen as may be appointed by the House of Representatives on the differing Votes of the Houses on this Bill.—

Teste George Wyllys Secy

1. MS, Connecticut Archives, Civil Officers, 1790–1820, Series 2, Vol. 22, doc. 4, Ct. See also MS, Connecticut Archives, Revolutionary War, 1763–1789, 2nd Series, Vol. 22, no. 3, Ct.

House of Representatives Proceedings, Monday, 24 May 1790¹

On report of Committee of conference on bill for ratifying the amendments to the Constitution of the United States—on motion ordered that the rule, that this house shall decide, on a report of a Committee of Conference, without debate be dispensed with so far as respects the report of the Committee on said Amendments—

On motion—Ordered, That the consideration of the report of that Committee of Conference on the amendments to the Constitution of the United States be assigned for Tuesday next (being the 25. instt.) in the forenoon.

1. MS, House Journal, Ct.

Council Proceedings, Monday, 24 May 1790¹

On Report of the Comtee. of Conference and Reconsideration This House do adhere to their first Vote on this Bill

Teste George Wyllys Secy

1. MS, Connecticut Archives, Revolutionary War, 1763–1789, 2nd Series, Vol. 22, no. 3, Ct.

House of Representatives Proceedings, Tuesday, A.M., 25 May 1790¹

Agreeably to order of the day took into consideration the bill for ratifying the amendments to the Constitution of the United States, with

report of Committee of conference thereon and on reconsideration adhered to the former vote of this house on the bill.

1. MS, House Journal, Connecticut State Library. See also MS, Connecticut Archives, Civil Officers, 1790–1820, 2nd Series, Vol. 22, doc. 4, Ct.

**Draft Bill on Amendments to the Constitution of the United States
16 October 1790¹**

Resolved by this Assembly that the Articles of the amendment to the Constitution of the United States proposed to the Several State Legislatures by the Congress of the United States at their Session begun and held in the City of New-York on Wednesday the 4th day of March one thousand seven hundred and Eighty nine be, and they are hereby rejected—

Passed in the House of Representatives

Test Le Swift Clerk

1. MS, Connecticut Archives, Civil Officers, 2nd Series, Vol. 22, Ct.

House of Representatives Proceedings, Saturday, 16 October 1790¹

Negated the articles of Amendment to the Constitution of the United States—

1. MS, House Journal, Ct.

Council Proceedings, October 1790¹

The further Consideration of this Bill, is referred, to the General Assembly of this State, to be holden at Hartford, on the 2d, Thursday of May next—

Teset George Wyllys Secrety

1. MS, Connecticut Archives, Civil Officers, 2nd Series, Vol. 22, Ct.

House of Representatives Proceedings, October 1790¹

Concurred in the house of Representatives

Test Le Swift Clerk—

1. MS, Connecticut Archives, Civil Officers, 2nd Series, Vol. 22, Ct. See also MS, House Journal, Ct.

**Governor Samuel Huntington to Secretary of State
Thomas Jefferson, Norwich, Conn., March 1792 (excerpts)¹**

I am, this day, favour'd, with your letter of the 2nd instant, enclosing . . . the ratification by three fourths of the legislatures of the Several

States, of certain Articles in Addition to, & amendment of, the constitution of the United States;

and have the honour to be with the most perfect Respect

1. RC, RG 11, Certificates of Ratification, DNA.

Connecticut General Assembly: Joint Resolution Ratifying the First Ten Amendments, 12–13 April 1939¹

RESOLUTION RATIFYING ARTICLES OF THE AMENDMENTS ONE TO TEN, INCLUSIVE, OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA.

Resolved by the General Assembly of the State of Connecticut:

That Articles one to ten, inclusive, of the Amendments to the Constitution of the United States of America be and the same are hereby ratified by the General Assembly of the State of Connecticut, and

RESOLVED, that certified copies of the foregoing resolution be forwarded by the Governor of the State of Connecticut to the President of the United States, the Secretary of State of the United States, the President of the Senate of the United States and the Speaker of the House of Representatives of the United States.

State of Connecticut

House of Representatives

Apr 12 1939

Passed.

State of Connecticut

Senate

Apr 13 1939

Passed.

1. MS, RG 11, Certificates of Ratification, DNA.

Certification of Form of Ratification, Hartford, Conn., 24 April 1939¹

I, Sara B. Crawford Secretary of the State of Connecticut, and keeper of the seal thereof, and of the original record of the Acts and Resolutions of the General Assembly of said State, *do hereby certify* that I have compared the annexed copy of HOUSE JOINT RESOLUTION No. 282, RATIFYING ARTICLES OF THE AMENDMENTS ONE TO TEN, INCLUSIVE, OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA, with the original record of the same now remaining in this office, and have found the said copy to be correct and complete transcript thereof.

AND I FURTHER CERTIFY, that the said original record is a public record of the said State of Connecticut, now remaining in this office.

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of said State, at Hartford, this twenty-fourth day of April 1939.

1. RC, RG 11, Certificates of Ratification, DNA.

**Secretary of the State Sara B. Crawford to President
Franklin D. Roosevelt, Hartford, Conn., 25 April 1939¹**

Dear Mr. President:

Pursuant to the direction of His Excellency, Raymond E. Baldwin, Governor of the State of Connecticut, there is sent to you herewith a copy of a Joint Resolution of the General Assembly of the State of Connecticut, ratifying Articles of the Amendments One to Ten, inclusive, of the Constitution of the United States of America.

1. RC, RG 11, Certificates of Ratification, DNA.

**Delaware
28 January 1790**

On 23 October 1789, Delaware President Joshua Clayton sent a message to the Assembly that included a letter from President George Washington transmitting Congress' twelve proposed amendments to the Constitution. The next day the Assembly sent Clayton's message with its enclosure to the Council, but the Assembly also informed the Council that it planned to adjourn that evening "to a distant Day." The Council agreed to the adjournment.

At its next session, the Council on 14 January 1790 agreed that it would consider the amendments on Saturday, 16 January. On that day, the Council voted to ratify all of the amendments except the first one dealing with the size of the U.S. House of Representatives, which the Council voted to postpone. On 20 January the Council sent its action to the Assembly, which assigned Friday, 22 January, to consider the amendments. On the 22nd, the Assembly resolved itself into a committee of the whole, which followed the Council's example of ratifying all but the first amendment. The Assembly approved the committee's report and ordered that a copy be sent to the Council. After receiving the Assembly's approval of the eleven amendments on 23 January, the Council appointed a three-man committee "to draw up & report" a form of ratification. Four days later, the committee made its report which the Council approved and agreed to send to the Assembly for its concurrence. On 27 January the Assembly received the form, approved it, and ordered that it "be annexed to the engrossed Amendments" received from Congress. (See the headnote to the Delaware form of ratification [below].) On 28 January the Assembly compared the draft and engrossed form of ratification which on order was signed by the Speaker and then sent to the Council, which read and approved it.

Delaware President Joshua Clayton sent Congress' engrossed amendments with the affixed state's form of ratification to President Washington on 19 February. On 8 March, Washington's secretary, sent the form and President Clayton's letter to the Department of State. The document was filed on 9 March.

**President Joshua Clayton: Message to the General Assembly
Dover, Del., 23 October 1789 (excerpts)¹**

Gentlemen of the General Assembly,

I have directed the Secretary to lay before your Honours the following Papers which have been communicated to me by His Excellency the President of The United States, to wit. . . .

22. The Amendments proposed to be added to the Constitution of the United States. . . .

1. MS, Legislative Papers, Delaware Hall of Records. Signed by "Joshua Clayton," this manuscript was docketed: "Message from the President Oct: 23th. 1789./read/referred to Mr. Johns, Mr. Gordon, Mr. Polk./report made." Clayton's message was also printed in both the Assembly Journal and Council Minutes (*Votes and Proceedings of the House of Assembly of the Delaware State . . .* [Wilmington, Del., 1790] [Evans 22455], 9). Hereafter cited as *Assembly Proceedings*.

Council Proceedings, Saturday, 24 October 1789 (excerpts)¹

Mr Robinson a member of Assembly was admitted and presented to the chair the following Messages from His Excellency the President, together with the Papers therein mentioned. Vizt. . . .

[President Clayton's message appears here followed by the list of papers that he presented, including "The Amendments proposed to be added to the Constitution of the United States."]

. . . The Speaker laid on the Table the following Resolves of the House of Assembly, which was on motion Read, and thus acted on Vizt.

In Assembly A.M. Oct 24th 1789

On Motion Resolved.

That it is the intention of this House to conclude the present Session this Evening, by adjourning the same to a distant Day.

Ordered That Mr. Truitt deliver a Copy of this Resolution to the Council for their concurrence

Ja: Booth, C.H.A. . . .

Mr. Fisher a member of Assembly was admitted and Delivered the Resolution of the Adjournment of the House of Assembly.

Council then adjourned to the first Monday in January next.

1. Typescript, Minutes of Legislative Council, Delaware Public Archives. (Hereafter cited as De-Ar.)

Council Proceedings, Thursday, P.M., 14 January 1790¹

On Motion ordered That Saturday next be assigned for the purpose of considering The amendments proposed by Congress to The Constitution of the United States.

1. MS, Minutes of the Council, 3, De-Ar.

Council Proceedings, Saturday, A.M., 16 January 1790 (excerpt)¹

Council Assembled.

Present as yesterday, except Mr. Shankland. Agreeably to the Order of the day, Council proceeded to the consideration of the following Amendments by Congress proposed to the Constitution of the United States, and having postponed the first Article or amendment proposed. Unanimously agreed to the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Nine, Tenth, Eleventh and Twelfth Articles.

1. MS, Minutes of the Council, 5, De-Ar.

Council Proceedings, Wednesday, 20 January 1790¹

Council Assembled.

On Motion ordered that the Amendments proposed by Congress to the Constitution of The United States be sent to the House of Assembly by Mr. Kean and that he deliver them the following verbal Message.

Gentlemen

Council have taken into Consideration the Amendments proposed by Congress to the Constitution of the United States and have on their Parts agreed to each of them except the first Article, which for the present They are of Opinion should be Postponed, as they are not satisfied of the Propriety of it"²

Mr. Kean delivered the Same and also a Message, accordingly.

Council adjourned to 10 OClock to-morrow.

1. MS, Minutes of the Council, 9, De-Ar.

2. A manuscript copy of this message is in the Legislative Communications, Delaware Hall of Records.

Assembly Proceedings, Wednesday, 20 January 1790¹

Mr. *Kean*, a Member of Council, delivered the Amendments proposed by Congress to the Constitution of the United States; and also a Message from the Council to this House, which was read as follows²:

[The Council's message is printed here.]

“Signed by Order of the Council,

GEORGE MITCHEL, *Speaker*.”

On Motion, *Resolved*, That *Friday* next be assigned for the Consideration of the Amendments proposed to the Constitution of the United States.

Adjourned to ten o'Clock To-morrow Morning.

1. Printed: *Assembly Proceedings*, 21.

Assembly Proceedings, Friday, A.M., 22 January 1790¹

The House met; absent Mr. *May*.

⟨Agreeably to the Order of the Day, the House resolved itself into a Committee of the Whole, to take into Consideration the Amendments proposed by Congress to the Constitution of the United States.

Mr. Speaker left the Chair.

Mr. *Duff* took the Chair of the Committee.

Mr. Speaker resumed the Chair.

Mr. *Duff*, from the Committee, reported that they had directed him to make the following Report:

That having maturely considered the Amendments proposed by Congress to the Constitution of the United States, they have agreed to each Article thereof, except the first, which the Committee are of Opinion should be postponed.

To which said Report the House agreed.

Ordered, That a Copy of the foregoing Report be sent to the Council for their Information.⟩²

1. Printed: *Assembly Proceedings*, 24.

2. A manuscript copy of the last three paragraphs is filed in the Legislative Records, 1790, Reports, Delaware Hall of Records.

Council Proceedings, Saturday, 23 January 1790¹

Council Assembled. Present as yesterday.

Mr. Batron a member of the House of Assembly was admitted & returned the amendments proposed by Congress to the Constitution of the United States, & presented the following Communication from the House of Assembly

[The text in angle brackets in the Assembly Journal, 22 January, is printed in the Minutes of the Council at this point.]

On Motion ordered That Mr. Bedford, Mr. Ridgely & Mr. Porter be a Committee to draw up & report to Council the form of a Ratification² agreeing to & confirming the Amendments proposed by Congress to the Constitution of the United States:

1. MS, Minutes of the Council, 14–15, De-Ar.

2. The manuscript incorrectly has the word “Resolution” at this point.

Council Proceedings, Wednesday, 27 January 1790¹

Council Assembled.

The Committee who were appointed to Draw up the form of Ratification to be Annexed to the Amendments proposed by Congress; Beg leave to Report the following.

[Here follows Delaware's form of ratification of the amendments. See below.]

That Council do agree to the foregoing Report.

Ordered, That Mr. Ridgely wait on the House of Assembly with the proposed Form of Ratification for their Concurrence: which he did accordingly.

1. MS, Minutes of the Council, 24–25, De-Ar.

Assembly Proceedings, Wednesday, 27 January 1790¹

Mr. *Ridgely*, a Member of Council, delivered a Paper containing the Form, proposed by the Council, of the Ratification to be annexed to the engrossed Amendments proposed by Congress to the Constitution of the United States; and the same having been read and considered, was approved and adopted by this House.

Ordered, That the said Ratification be engrossed.

1. Printed: *Assembly Proceedings*, 37.

Assembly Proceedings, Thursday, A.M., 28 January 1790¹

The House met; absent Messrs. *May*, and *Collins*.

The engrossed Ratification, subjoined to the Amendments proposed to the Constitution of the United States, was compared, and by Order signed by the Speaker; which said Amendments and Ratification are in the following Words:

[Here appears Congress' resolution and the text of its twelve proposed amendments to the Constitution, followed by the names of Frederick Augustus Muhlenberg, Speaker of the U.S. House of Representatives, and John Adams, Vice President of the United States and President of the Senate, and the attestations of John Beckley, Clerk of the U.S. House of Representatives, and Samuel A. Otis, Secretary of the U.S. Senate.]

The GENERAL ASSEMBLY of DELAWARE,

Having taken into their Consideration the above Amendments, proposed by Congress to the respective Legislatures of the several States,

Resolved, That the first Article be postponed:—Resolved, That THE GENERAL ASSEMBLY DO AGREE to the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, and Twelfth Articles; and WE DO HEREBY ASSENT TO, RATIFY, and CONFIRM the same, as Part of the Constitution of the United States. *In Testimony* whereof, We have caused the Great-Seal of the State to be hereunto affixed, this twenty-eighth Day of *January*, in the Year of our Lord One Thousand Seven Hundred

and Ninety, and in the fourteenth Year of the Independence of the *Delaware State*.

Signed by Order of Council,

GEORGE MITCHELL, *Speaker.*

Signed by Order of the House of Assembly,

JEHU DAVIS, *Speaker.*

1. Printed: *Assembly Proceedings*, 38–40.

Council Proceedings, Thursday, A.M., 28 January 1790 (excerpts)¹

Council Assembled; Present as yesterday

Mr. Duff a member of the Assembly was admitted & delivered the following Papers, Viz which was by order read. . . . The proposed Form of Ratification to be Annexed to the Amendments proposed to the Constitution of the United States then acted on

“Approved & adopted by the House of Assembly.[”]

1. MS, Minutes of the Council, 25–26, De-Ar.

Delaware Form of Ratification, 28 January 1790

A committee of the Council drafted the form of ratification on 27 January. The Council approved the form and sent it to the Assembly on 27 January. The Assembly approved the form and ordered it engrossed. On 28 January, the Assembly considered and approved the engrossed form of ratification and ordered that its speaker sign the document. The Assembly then sent the form to the Council, which approved it and ordered its speaker to sign it.

Delaware’s form of ratification was unique. Instead of creating an entirely new engrossed document, the legislature annexed its form of ratification to the bottom of the engrossed broadside approved by Congress in September 1789 and sent to the states by President George Washington on 2 October 1789. The Great Seal of the State of Delaware was affixed to this document. For 200 years the Delaware form of ratification remained in the archives of the United States until in 2003 the National Archives agreed that the document would periodically be on loan to the State of Delaware to be put on display.

The text of the form of ratification is the same as the text in the Assembly Proceedings, 28 January 1790 (above). A facsimile is available on the National Archives’ website (RG 11, General Records of the United States Government, 1778–2006).

Delaware President Joshua Clayton to President George Washington Dover, Del., 19 February 1790¹

Agreeably to the Direction of the General Assembly of this State, I do myself the Honour to inclose your Excellency their Ratification of the Articles proposed by Congress to be added to the Constitution of the United States; and am; with every Sentiment of Esteem

1. RC, RG 11, Certificates of Ratification, DNA. The letter was docketed: "No. 6./Act of the State of Delaware adopting the Amendments to the Constitution—except the first Article/filed March 9th. 1790—"

Tobias Lear to Roger Alden, New York, 8 March 1790¹

The President of the United States has commanded me to transmit to you, to be deposited in the Office of the Secretary of State, certain Articles proposed by Congress to the Legislatures of the several States as Amendments to the Constitution of the United States—which have been ratified by the Legislature of Delaware—and likewise a Letter from His Excellency Joshua Clayton President of the State of Delaware to the President of the United States.

I am Sir, with very great esteem

1. RC, RG 11, Certificates of Ratification, DNA. Beneath his signature, Lear identified himself as "Secretary to the President of the United States." Alden was a clerk in the Department of State. On 11 February, the *Pennsylvania Packet* announced that "The amendments proposed by Congress to the Constitution of the United States, were ratified on the 28th of January, by the state of Delaware, except the first article, which has been postponed" (reprinted in the *New Jersey Journal*, 17 February; and *New York Packet*, 20 February). On 9 March, the *New York Packet* reported that "A message from the President of the United States, by Mr. Lear his private secretary, transmitted the ratification of eleven of twelve articles proposed by Congress to the consideration of the United States, by the State of Delaware (the consideration of the first article being postponed.)" This report was reprinted in twenty-two newspapers by 2 June: Mass. (2), Conn. (3), N.Y. (4), N.J. (1), Pa. (6), Md. (3), Va. (2), N.C. (1). On 13 February the Philadelphia *Independent Gazetteer* reported that "The Legislature of Delaware, likewise, have adopted the whole of the said proposed amendments, except the first."

Georgia **24 March 1939**

The Georgia executive council under the state constitution of 1777 received President George Washington's letter of 2 October 1789 transmitting Congress' twelve proposed amendments to the Constitution. Governor Edward Telfair, acting under the new state constitution that went into effect in October 1789, sent a message to the Georgia House of Representatives on 4 November 1789 in which he referred to the receipt of Washington's letter with Congress' amendments. On 18 November, Governor Telfair sent a message to the legislature referring to documents that had been transferred from the old state executive office to the new governor's office. Some of these documents required "legislative deliberations." One of the governor's secretaries was to bring the original documents to the legislature where copies would be made and the originals returned. Telfair indicated that the proposed amendments to the Constitution "being of a special nature, will be laid before either branch of the General Assembly upon a joint order to that effect." Both legislative houses received Telfair's message on 19 November and each appointed a committee to consider the message. On 20 November, the executive council ordered

that the governor's message of 18 November and Congress' twelve amendments should be "published in the State Gazette." The message and the amendments were printed by John E. Smith, the state printer, in his weekly newspaper, the *Augusta Chronicle and the Gazette of the State* on 28 November. Immediately following the amendments, Smith printed the New York legislature's application to Congress calling for a second constitutional convention.

On 24 November the Senate appointed two members to a joint committee to consider the amendments. The next day, the Assembly added three of its members to the joint committee. On 1 December the joint committee reported to the Senate that amendments to the Constitution could only be "effectually pointed out, but by experience"; consequently the Senate resolved that the further consideration of the amendments "be postponed." The Senate sent its resolution to the Assembly, which on 2 December ordered "that the same do ly on the Table."

Ironically, two years later, the grand jury of the federal circuit court for the district of Georgia on 18 October 1791 delivered its presentment to Supreme Court Justice James Iredell complaining about the lack of a federal bill of rights stipulating the reserved powers of the states. The last amendment proposed by Congress provided such a protection.

Georgia, like Massachusetts and Connecticut, symbolically ratified the first ten amendments in 1939, the sesquicentennial of Congress' proposal of the twelve amendments that became the Bill of Rights.

Executive Council Proceedings, Augusta, Monday, 31 October 1789¹

A letter from the President of the United States dated the 2d instant, enclosing a Resolution and a Copy of the amendments proposed to be added to the Constitution of the United States, was read and Ordered to be laid before the Legislature.

1. MS, Minutes of the Executive Council of Georgia, Jan.–Nov. 1789, Georgia Department of Archives and History. (Hereafter cited as G-Ar.)

House of Representatives Proceedings, Thursday, 4 November 1789¹

A Message from his Honor the Governor referring to papers, documents, and transactions of the late administration, was received and read.

Ordered, that the same do lie on the Table.

1. MS, Extracts from the Journals, G-Ar.

Council Proceedings, Wednesday, 17 November 1789 (excerpts)¹

The Secretary of the late Executive having informed of certain communications, from the Governor of New York of the 5th. May last . . . and from the President of the United States of the 2nd. October being on the files of the said late Executive

Ordered, That they be removed therefrom, and placed on the files of the present Executive, any order to the contrary notwithstanding.

Ordered, That the communications and Letters above referred to, be postponed for consideration.

1. MS, Extracts from the Journals, G-Ar. The two communications were the 5 May 1789 circular letter from New York Governor George Clinton transmitting to the other state governors the New York legislature's resolution requesting Congress to call another constitutional convention to amend the U.S. Constitution and President George Washington's letter of 2 October 1789 transmitting Congress' twelve proposed amendments to the U.S. Constitution. The *Augusta Chronicle*, 28 November 1789, printed New York's resolution calling for a second constitutional convention and Congress' proposed twelve amendments to the Constitution.

**Governor Edward Telfair Message to the General Assembly
Augusta, 18 November 1789¹**

Certain communications taken from the files of the late Executive being taken up, the following Message was sent to the General Assembly.²

State-House, Augusta, 18th Novr. 1789

The honorable the President of the Senate and the honorable the Speaker of the House of Representatives

I have removed from the files of the late Executive and placed on those of the present, certain communications and letters, which from their tenor, require legislative deliberations, and among which are, a communication from the President of the United States, dated the 2nd. October last, accompanied with a resolution of the National Government, authorizing proposed amendments, by Congress, to the Constitution of the United States,—also a Communication from His Excellency Governor Clinton of the State of New-York, accompanied with a concurrent resolution of the General Assembly of that State on the subject of amendments to the aforesaid Constitution.

One of the Secretaries to the Executive will attend with any original documents appertaining to the Executive Department any separate or joint Committee of either branch, or of the General Assembly, at Chambers provided in the State-house for that purpose, and after reading the same, he is instructed to furnish the necessary extracts or Copies therefrom, and then return the said Originals to their proper deposit—The original proposed amendments to the Constitution of the United States being of a special nature, will be laid before either branch of the General Assembly upon a joint order to that effect[.]

Edwd. Telfair

Adjourned

1. MS, Executive Department Minutes, 1789–90, p. 18, G-Ar. Printed: *Augusta Chronicle*, 28 November 1789.

2. The attestation "J. Meriwether, S.E.D." follows this paragraph in the *Augusta Chronicle*, 28 November.

House of Representatives Proceedings, Friday, 19 November 1789¹

A Message from His Excellency the Governor, was received and read.
And Ordered to be referred to a Special Committee—and that Mr. Sullivan Mr. Stirk and Mr. Joshua Williams be that Committee.

1. MS, Journal of the House of Representatives, 1789–90, p. 92, G-Ar.

Senate Proceedings, Friday, 19 November 1789¹

A Message from the Governor, by Mr. Secretary Urquehart, was received, read, and Committed to Mr. Stephens, and Mr. McNeil.

1. MS, Senate Journal, 1789–90, p. 36, G-Ar.

Executive Council Proceedings, Saturday, 20 November 1789¹

Ordered, That the proposed amendments to the Federal Constitution, as transmitted by the President of the United States be published in the State Gazette.

Adjourned

1. MS, Executive Department Minutes, 1789–90, p. 24, G-Ar. Printed: *Augusta Chronicle*, 28 November 1789, with the attestation of “J. Meriwether, S.E.D.” The auditor’s account with John E. Smith, the state printer, who also printed the weekly *Augusta Chronicle and the Gazette of the State*, provided that Smith be paid 5s 11d for inserting the governor’s message of 18 November and Congress’ proposed amendments in his newspaper (MS, Special Collections, Teleman Cuyler Collection, Financial Misc., 1788–89, University of Georgia Library.)

Senate Proceedings, Tuesday, 24 November 1789¹

On the Message from the Governor of the 19th. Instant.

Resolved that Mr. McNeil and Mr. Stephens be a committee on the part of the Senate, to join a committee to be appointed by the house of Representatives on the Subject: and that the House of Representatives be requested to nominate their committee.

Ordered that the Secretary inform them accordingly.

1. MS, Senate Journal, 1789–90, p. 44, G-Ar.

**House of Representatives Proceedings, Wednesday
25 November 1789¹**

A Message from the Senate by their Secretary Mr. Watkins.
Mr. Speaker,

The Senate have appointed Mr. McNeil and Mr. Stephens a committee on their part to join any committee that may be appointed by the

house of Representatives on the subject matter of the Governors Message of the 19th. instant and your house is requested to nominate your Committee and then he withdrew.—

Ordered that a Message be sent to the Senate to inform them that this house hath joined Mr. Sullivan Mr. Stirk and Mr. Joshua Williams as their committee on the Subject of his Excellency's Message of the 19th. Instant.

1. MS, Journal of the House of Representatives, 1789–90, p. 140, G-Ar.

Senate Proceedings, Thursday, 26 November 1789¹

A Message from the House of Representatives by Mr. Simmons their Clerk, purporting that they had joined Mr. Sullivan, Mr. Stirk and Mr. Williams to the committee of the Senate appointed on the 24th. Instt. on the Subject of the Governors message of the 19th. instant.

1. MS, Senate Journal, 1789–90, p. 54, G-Ar.

Senate Proceedings, Tuesday, 1 December 1789¹

Mr. McNeil in behalf of the joint committee of both houses, to whom was referred the Governors Message of the 19th November.

Report, That the proposed amendments to the defective parts of the Constitution of the united States, and which are particularly the object of, and referred to in the said Communication cannot be effectually pointed out, but by experience.—therefore Resolved, that the further consideration of the message be postponed. which was accepted. Ordered that the Secretary do carry the [report] to the House of Representatives for their concurrence.

1. MS, Senate Journal, 1789–90 Ex., p. 67, G-Ar.

House of Representatives Proceedings, Wednesday 2 December 1789¹

A Message from the Senate by their Secretary Mr. Watkins.
Mr. Speaker,

The Senate have taken under consideration the report of the joint committee of both branches of the Legislature to whom was referred the Governors Message of the 19th November 1789 In the words following—

That the proposed amendments to the defective parts of the constitution of the United States, and which are particularly the object of, and

referred to in the said communication; cannot be effectually pointed out, but by experience, therefore.—

Resolved that the further consideration of the message be postponed.— to which the Senate request your concurrence, and then he withdrew. Ordered that the same do ly on the Table.

1. MS, House of Representatives Journal, 1789–90, p. 176, G-Ar.

**Governor Edward Telfair to President George Washington
State House, Augusta, 5 December 1789¹**

I do myself the honor to acknowledge your Excellency's communications dated the 2nd, 3d and 8th of October last, and herewith transmit the Executive proceedings thereon.

I have the honor to be, with every sentiment of esteem

1. MS, Extract from the Minutes of the Council, p. 37, G-Ar. In the Council's Minutes, the letter was prefaced: "The following Letter was sent to the President of the United States."

**Presentment of the Grand Jury of the Circuit Court for the
District of Georgia, Augusta, Ga., 18 October 1791 (excerpts)¹**

We the Grand federal Inquest for the district of Georgia do make the following presentments. . . .

2. We present the want of a Bill of rights clearly defining the reserved rights of the several States, comprehended in the Guarantee of a Republican form of Government to each state by the constitution of the United States. . . .

1. Printed: Maeva Marcus, ed., *The Documentary History of the Supreme Court of the United States, 1789–1800* (New York, 1988), II, 224. Supreme Court Justice James Iredell delivered the charge to the grand jury in Augusta on 17 October 1791 and the presentment of the grand jury was delivered the next day. Both were printed in the *Augusta Chronicle*, 22 October, and reprinted in the supplement to the *Charleston City Gazette*, 1 November, and the *Baltimore Daily Repository*, 24 November 1791.

**Executive Department Proceedings, Thursday, 26 April 1792
(excerpts)¹**

A Communication dated the 1st March 1792 from the Secretary of the United States enclosing . . . the "Ratifications by three fourths of the Legislatures of the several States of certain articles in addition to and amendment of the Constitution of the United States, proposed by Congress to the said Legislatures," was received, read &c

Ordered to be filed and the following communication made
State-house, Augusta, 26th April 1792

Your Communication of the 1st March with its enclosures were this day received. I transmit you the Executive order thereon, and have the honor to be

Sir, Your most Obedt. Servt. Edwd Telfair

1. Typescript from the Executive Department Minutes, 1791–92, pp. 209–10, G-Ar.

Resolutions Adopting the Bill of Rights, 24 March 1939¹

Whereas, the General Assembly of Georgia has never ratified the first ten amendments to the Constitution of the United States of America, commonly known as “The Bill of Rights”; and

Whereas, the said first ten amendments to the Federal Constitution are fundamental and restricted certain powers of the National Government; and

Whereas, it is fitting and proper that the Journals of Congress show that the people of Georgia, through their General Assembly, are in sympathy with the Bill of Rights of the Federal Constitution:

Therefore, be it resolved by the Senate, the House of Representatives concurring, that the first ten amendments to the United States Constitution be and the same are hereby ratified.

Be it further resolved that a copy of this resolution be dispatched to the Clerk of the United States House of Representatives and to the Secretary of the United States Senate.

1. Printed: Georgia Legislative Documents, Georgia State Archives.

Maryland 19 December 1789

On 8 November 1789, Governor John Eager Howard delivered a speech in the Council in which he alluded to Congress' proposed twelve amendments to the Constitution and a letter from New York Governor George Clinton with a joint resolution from the New York legislature calling for a second constitutional convention. Governor Howard had the documents sent to the Maryland House of Delegates, which on 9 November, read the documents and selected a nineteen-person committee to “consider and report on the proposed amendments,” Governor Clinton's letter, and the New York resolution. On 12 November, the committee reported that the amendments “ought to be ratified,” but that, “in the present situation of our public affairs” Maryland should not “take any steps in consequence of the letter and resolution” from Governor Clinton and New York. The House read the report for the first time.

The following Monday, 16 November, the House appointed five members to a joint committee to “address the president of the United States.” On 17 November, the Senate appointed two members to the joint committee.

On 18 November, the House read the report of the committee of nineteen a “second time and unanimously concurred with” it, at which time the House appointed a seven-person committee to draft a bill to ratify the amendments. The next week, on 23 November, the seven-person committee delivered a bill to the House entitled, “An act to ratify certain articles in addition to, and amendment of, the constitution of the United States of America,” which was read and “ordered to lie on the table.”

On 25 November, the House read the bill a second time, passed it, and sent it to the Senate. Later that day, the Senate read the bill the first time and ordered it to lie on the table. On the bill’s second reading on 30 November, an objection was raised to the second amendment, but by a vote of 7 to 2 the Senate approved that amendment. The entire bill was then read, agreed to, and ordered to be sent to the House. Upon receiving the Senate’s confirmation of the bill that same day, the House ordered the bill to be engrossed. Two weeks later, on 17 December, the House approved the engrossed act and sent it to the Senate. On 19 December, the Senate read and assented to the engrossed bill, making Maryland the eighth state to ratify the amendments. On 15 January 1790, Governor Howard transmitted a copy of the act to President George Washington.

On 18 December, the House read an address to President Washington prepared by the joint committee. On the same day the House read the address a second time, assented to it, and ordered it sent to the Senate. On 19 December, the Senate read the joint committee’s address and requested that it lie on the table. After some revision, the Senate agreed to a revised address on 20 December and sent it back to the House. On 21 December, the House read the revised address once and ordered it to lie on the table. Three days later, on 24 December, the House read the revised address a second time and assented to it. Around the first week of January, Maryland’s U.S. senator John Henry and U.S. Representatives Daniel Carroll, Joshua Seney and William Smith received the address to the president from their state legislature. On 12 January, this group of four congressmen presented Maryland’s address to George Washington and eight days later they transmitted the president’s response to Annapolis.

**Governor John Eager Howard to the General Assembly
Sunday, 8 November 1789 (excerpt)¹**

In Council November 8th, 1789

Gentlemen,

In addition to the Laws and proceedings of both houses of Congress; with the Amendments proposed to the Constitution of the United States,² and a Letter from Governor Clinton of New York on that Sub-

ject, which have been delivered to the Hon'ble Speaker of the House of Delegates; We now lay before you the following papers. . . .

1. FC, Letterbooks of the Governor & Council of Maryland, Maryland State Archives. Also found in Maryland Hall of Records, "State Papers" folder 1789B.

2. Probably a reference to the 105-page pamphlet edition of the acts of Congress passed at its first session which included Congress' twelve proposed amendments on pages 92–93 (Evans 22189). This pamphlet edition was offered for sale in the New York *Daily Advertiser* on 5 October 1789.

House Proceedings, Monday, 9 November 1789¹

His excellency the governor communicates a letter from the president of the United States of the 2d October, 1789, enclosing a resolution, and a copy of the amendments proposed to be added to the constitution of the United States; and a letter from the governor of New-York, enclosing a resolution on the subject matter of amendments to the constitution of the United States; which were read.

On motion, ORDERED, That Mr. Z. Forrest, Mr. W. Tilghman, Mr. J. G. Worthington, Mr. Somervell, Mr. Parnham, Mr. Ridgely, Mr. Winder, Mr. Steele, Mr. Bond, Mr. Clark, Mr. Quynn, Mr. Seney, Mr. Dashiell, Mr. Dorsey, Mr. Pinkney, Mr. Emory, Mr. M'Henry, Mr. Stull and Mr. Oneale, be a committee to consider and report on the proposed amendments to be added to the constitution of the United States.

On motion, ORDERED, That the letter from his excellency the governor of New-York, with the resolution of the legislature of the same state, on the subject of amendments to the constitution of the United States, be referred to the above committee.

1. Printed: *Votes and Proceedings of the House of Delegates of the State of Maryland* (Annapolis, 1790) (Evans 21934), 4–5. Hereafter referred to as *House Journal*.

House Proceedings, Thursday, 12 November 1789¹

Mr. Seney, from the committee, brings in and delivers to Mr. Speaker the following report:

The committee to whom was referred a letter of the president of the United States of the 2d of October last, the amendments proposed by congress to the constitution of the United States, a letter from the governor of New-York of the 5th of May last, and the resolution of the legislature of New-York, on the subject of amendments, beg leave to report, that they have considered the several subjects referred to their consideration, and are of opinion that the said amendments to the general government ought to be ratified by this state. The committee are further of opinion, that it is not necessary, in the present situation

of our public affairs, for the legislature of Maryland to take any steps in consequence of the letter and resolution aforesaid. All which is submitted to the honourable house.

By order,

T. PURDY, clk.

Which was read.

1. Printed: *House Journal*, 9.

House Proceedings, Monday, 16 November 1789¹

Mr. Speaker, with the members, returned and resumed the chair. The following message being prepared, was read and agreed to.

By THE HOUSE OF DELEGATES, NOVEMBER 16, 1789.

MAY IT PLEASE YOUR HONOURS,

This house propose that the legislature of this state address the president of the United States, and have appointed Mr. M'Henry, Mr. Pinkney, Mr. U. Forrest, Mr. J. Tilghman and Mr. Craik, to join such members as your honours may appoint, to prepare the same.

By order,

W. HARWOOD, clk.

The house adjourns till to-morrow morning 9 o'clock.

1. Printed: *House Journal*, 18.

House Proceedings, Tuesday, 17 November 1789 (excerpts)¹

William Perry, Esquire, from the senate, delivers to Mr. Speaker the following message:

BY THE SENATE, NOVEMBER 17, 1789.

Gentlemen,

We concur with your message of this day by Mr. Sterett, and have appointed Charles Carroll and Richard Ridgely, Esquires, to join such members as you have appointed, to prepare an address to the president of the United States. . . .

By order

H. Ridgely, clk.

1. Printed: *House Journal*, 20.

House Proceedings, Wednesday, 18 November 1789¹

The report on the subject of amendments, proposed by congress to the constitution of the United States, was read the second time, and unanimously concurred with, and leave given to bring in a bill pursuant thereto. ORDERED, That Mr. W. Tilghman, Mr. Seney, Mr. J. Tilghman,

Mr. Sterett, Mr. M'Henry, Mr. U. Forrest and Mr. Craik, be a committee to prepare and bring in the same.

1. Printed: *House Journal*, 22.

House Proceedings, Monday, 23 November 1789¹

Mr. W. Tilghman, from the committee, brings in and delivers to Mr. Speaker a bill, entitled, An act to ratify certain articles in addition to, and amendment of, the constitution of the United States of America, proposed by congress to the legislatures of the several states; which was read the first time and ordered to lie on the table.

1. Printed: *House Journal*, 32.

House Proceedings, Wednesday, 25 November 1789¹

The bill to ratify certain articles in addition to, and amendment of, the constitution of the United States of America, proposed by congress to the legislature of the several states, was read the second time, passed, and sent to the senate by Mr. W. Tilghman.

1. Printed: *House Journal*, 38.

Senate Proceedings, Wednesday, 25 November 1789¹

Mr. W. Tilghman, from the house of delegates, delivers to the president a bill, entitled, An act to ratify certain articles in addition to, and amendment of, the constitution of the United States of America, proposed, by congress to the legislatures of the several states, endorsed; "By the house of delegates, November 23, 1789: Read the first time and ordered to lie on the table.

By order,

W. HARWOOD, clk.

By the house of delegates, November 25, 1789: Read the second time and will pass.

By order,

W. HARWOOD, clk."

Which was read the first time and ordered to lie on the table.

1. Printed: *Votes and Proceedings of the Senate of the State of Maryland*. (Annapolis, 1790) (Evans 22642), 9. Hereafter referred to as *Senate Journal*.

Senate Proceedings, Monday, 30 November 1789 (excerpts)¹

On the second reading the bill, entitled, An act to ratify certain articles in addition to, and amendment of, the constitution of the United

States of America, proposed by congress to the legislatures of the several states, it was moved and seconded, That the senate agree to the 2d article contained therein? The yeas and nays being called for, appeared as follow:

AFFIRMATIVE [7].

The honourable Daniel Carroll, Esquire, president,
the honourable George Gale, Charles Carroll, of Carrollton,
William Perry, Peregrine Tilghman, James Carroll and
Nicholas Hammond, Esquires.

NEGATIVE [2].

The honourable John Smith and Richard Ridgely, Esquires.
Determined in the affirmative.

The bill being read throughout, and the question being put, That the said bill do pass? Determine in the affirmative. . . .

The bill to ratify certain articles in addition to, and amendment of, the constitution of the United State of America, proposed by congress to the legislatures of the several states . . . sent to the house of delegates by George Gale, Esquire.

1. Printed: *Senate Journal*, 12–13.

House Proceedings, Monday, 30 November 1789 (excerpts)¹

George Gale, Esquire, from the senate, delivers to Mr. Speaker the bill to ratify certain articles in addition to, and amendment of, the constitution of the United States of America, proposed by congress to the legislatures of the several states, enclosed: “By the senate, November 25, 1789: Read the first time and ordered to lie on the table.

By order,

H. RIDGELY, clk.

By the senate, November 30, 1789: Read the second time and will pass.

By order,

H. RIDGELY, clk.”

. . . Ordered to be engrossed.

1. Printed: *House Journal*, 47–48.

House Proceedings, Thursday, 17 December 1789¹

The engrossed bills No. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21 and 22, were read, assented to, and sent to the senate, with the paper bills thereof, by Mr. Hopewell.

The house adjourns till to-morrow morning 9 o'clock.

1. Printed: *House Journal*, 83. Bill no. 6 is the act for ratification of the amendments to the U.S. Constitution.

House Proceedings, Friday, 18 December 1789 (excerpts)¹

Mr. M'Henry, from the joint committee, brings in and delivers to Mr. Speaker an address to his excellency the president of the United States; which was read. . . .

The address of the general assembly of Maryland to the president of the United States, was read the second time and concurred with.

The following message being prepared, was read the first and second time and assented to.

BY THE HOUSE OF DELEGATES, DECEMBER 18, 1789

MAY IT PLEASE YOUR HONOURS,

WE have agreed to the address to the president of the United States, reported to this house by a joint committee of both houses, and propose, should it meet your assent, that the same be signed by the president of the senate and speaker of the house of delegates, and presented to the president of the United States by the representatives of this state [in] congress.

By order,

W. HARWOOD, clk.

1. Printed: *House Journal*, 83–84.

Senate Proceedings, Saturday, 19 December 1789 (excerpts)¹

[Printed here is the joint committee's proposed message to President Washington.]

Which was read and ordered to lie on the table.

. . . The engrossed bills from No. 2 to 10, and from No. 12 to 15, and from 17 to 22, were read and assented to, and the paper bills thereof so endorsed.

1. Printed: *Senate Journal*, 29–30.

**Act of Ratification of Amendments to the Constitution
19 December 1789¹**

An ACT to ratify certain articles in addition to, and amendment of, the constitution of the United States of America, proposed by congress to the legislatures of the several states.

WHEREAS it is provided by the fifth article of the constitution of the United States of America, that congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to the said constitution, or on the application of the legislatures of two thirds of

the several states, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of the said constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other modes of ratification may be proposed by the congress: And whereas, at a session of the congress of the said United States begun and held at the city of New-York on Wednesday the fourth day of March, in the year of our Lord one thousand seven hundred and eighty-nine, it was resolved by the senate and house of representatives of the said United States in congress assembled, two thirds of both houses concurring, that the following articles be proposed to the legislatures of the several states as amendments to the constitution of the United States, all or any of which articles, when ratified by three fourths of the said legislatures, to be valid to all intents and purposes as part of the said constitution, *viz.*

[Here follow the twelve amendments proposed by Congress to the Constitution.]

II. Be it enacted, *by the General Assembly of Maryland*, That the aforesaid articles, and each of them, be and they are hereby confirmed and ratified.

1. Printed: *Laws of Maryland. . . (Annapolis, 1790) (Evans 22640)*, vi. A copy of this act was made and sent by Governor John Eager Howard to President George Washington on 15 January 1790 (below). See immediately below for various endorsements.

Endorsements on copy of Maryland Act Ratifying Amendments 19 December 1789¹

By the House of Delegates, December, 17, 1789.

Read and assented to, By order, W. HARWOOD, Clerk.

By the Senate, December. 19, 1789.

Read and assented to, By order, Hy. Ridgely, Clerk.

J. E. HOWARD, Seal Appendant

I hereby certify that the above is a true copy from the original engrossed act as passed by the Legislature of the State of Maryland.

T. Johnson, Jun. Clk. Council

Maryland fst. In Testimony that Thomas Johnson junior is Clerk of the Executive Council for the State of Maryland, I have hereto affixed the Great Seal of the said State. Witness my hand this fifteenth day of January, Anno Domini, 1790.

Samuel Harvey Howard, Reg. Cur. Can.

1. MS, RG 11, Certificates of Ratification, DNA.

Senate Proceedings, Sunday, 20 December 1789¹

and the paper bills No. 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22; were sent to the house of delegates by Daniel Bowley, Esquire.

On the second reading the address to the president of the United States, reported to the house of delegates by the joint committee of both houses, and sent to the senate for concurrence, the question was put, That the senate concur therewith? Determined in the negative.

ORDERED, That a message be prepared to the house of delegates on the subject thereof, and that the address, as altered by the senate, be sent with such message.

The senate adjourns until to-morrow morning 9 o'clock.

1. Printed: *Senate Journal*, 32.

Senate Proceedings, Monday, 21 December 1789¹

The following messages were agreed to, and, with the paper bill No. 26, were sent to the house of delegates by Charles Carroll, Esquire.

BY THE SENATE, DECEMBER 20, 1789

Gentlemen,

WE have made some alterations in the address to the president of the United States, draughted by the joint committee of both houses. If these alterations should meet with your approbation, we concur in the mode mentioned in your message by Mr. Hollingsworth of presenting it to the president.

By order,

H. RIDGELY, clk.

1. Printed: *Senate Journal*, 32.

House Proceedings, Monday, 21 December 1789¹

Charles Carroll, of Carrollton, Esquire, from the Senate, delivers to Mr. Speaker the paper bill No. 26 endorsed; "By the senate, December 21, 1789: The engrossed bill whereof this is the original read and assented to.

By order

H. RIDGELY, clk."

And the following message, and address to the president of the United States.

[Reprinted here is a message from the Senate about their alterations to the address to President Washington.]

WE, the general assembly of Maryland, avail ourselves of the first occasion afforded us, since your election to the office of the president of the United States, of expressing to you our gratitude for accepting that truly honourable, yet arduous station, and of mingling our gratulations with those of our country on this auspicious event.

With pleasure we anticipate the blessings which these state[s] will derive from the firmness and wisdom of your administration. The past proofs of your respect for the rights of your fellow-citizens, amidst the din of arms and the rage of war, are a sure pledge that these rights will be equally respected and cherished by you in peace.

In this place, from which we now address you, our predecessors lately saw the affecting scene of their patriot chief resigning his military command, having fully accomplished its glorious ends.

The lapse of a few years having proved the inadequacy of the late confederacy to the attainment of its objects, it affords subject of the most pleasing reflection, that in the change which became necessary to the safety and welfare of the people of America, the president of the United States should be the same person to whom they were indebted for a long series of the most important, glorious and disinterested services.

The people have unanimously called upon you to preside over their common councils, under a well founded hope, that having asserted their independence by your skill in war, your wisdom and firmness in peace will avert the dangers of civil discord, and establish their union on so firm a basis that it will endure to the latest ages.

We reflect on these things with gratitude, and that for you're the singular happiness was reserved of being twice the saviour of your country.

May that kind providence, whose protection you have frequently experienced in the midst of many and great dangers, direct your measures, and long preserve a life, in the preservation of which such numbers feel themselves so deeply interested.

Which were read.

1. Printed: *House Journal*, 94.

House Proceedings, Thursday, 24 December 1789¹

The address to the president of the United States, was read the second time and assented to.

1. Printed: *House Journal*, 108.

House Proceedings, Friday, 25 December 1789 (excerpts)¹

Charles Carroll, of Carrollton, and William Perry, Esquires, from the senate acquaint Mr. Speaker that the governor is waiting in the senate to sign and seal the engrossed bills, and requests the attendance of this house for that purpose.

Mr. Speaker left the chair, and, attended by the members of this house, went to the senate, and there presented the following engrossed bills to the governor, who signed the same and affixed the great seal thereto in presence of both houses.

. . . No. 6 An Act to ratify certain articles in addition to, and amendment of, the constitution of the United States of America, proposed by congress to the legislatures of the several states.²

1. Printed: *House Journal*, 120.

2. This sentence appeared in the Baltimore *Maryland Gazette*, 29 December, and Annapolis *Maryland Gazette*, 31 December.

**Governor John Eager Howard to President George Washington
Annapolis, Md., 15 January 1790¹**

I have the honor to enclose a copy of An Act of the Legislature of Maryland, to ratify certain Articles in addition to and amendments of the Constitution of the United States of America proposed by Congress to the Legislature of the several States.

I have the Honor to be with the highest respect.

1. RC, RG 11, Certificates of Ratification, DNA. A draft of this letter is in "State Papers," Folder 1789B, Maryland Hall of Records.

Tobias Lear to Roger Alden, New York City, 25 January 1790¹

I am directed by the President of the United States to transmit herewith to you, to be deposited in the Office of State with other public papers under your care, and to be delivered to the Secretary of State whenever he may enter upon the duties of his office, An Act of the Legislature of Maryland to ratify certain Articles in addition to, and amendment of the Constitution of the United States of America proposed by Congress to the legislatures of the several States, and likewise a letter accompanying the above act from J. E. Howard Governor of the State of Maryland to the President of the United States—

1. RC, RG 11, Certificates of Ratification, DNA. The *New York Gazette of the United States*, 27 January 1790, printed the following: "Message from the President of the United States by Mr. Secretary Lear, transmitting the act of the Legislature of Maryland, for ratifying and adopting the Amendments to the Constitution of the United States, pro-

posed by Congress, which was read." This item was reprinted twenty-four times by 26 June: N.H. (2), Mass. (2), R.I. (1), Conn. (3), N.Y. (5), N.J. (1), Pa. (5), Va. (4), S.C. (1). A variant version was reprinted in four New York newspapers and in the *Virginia Herald*, 11 February. An extract of a letter from Annapolis dated 21 November 1789 reported that "The amendments recommended by Congress, were unanimously adopted by *our House* on Wednesday last" which was printed in the Philadelphia *Federal Gazette* on 30 November 1789 and reprinted twenty-one times by 28 December: Mass. (4), R.I. (1), Conn. (3), N.Y. (7), N.J. (1), Pa. (3), Va. (2).

New York Gazette of the United States, 27 January 1790¹

The ratification of the Amendments to the Constitution by the State of Maryland, is an additional trait in the truly federal character of that respectable republic.

1. Reprinted six times by 10 February: N.H. (1), Mass. (2), Conn. (1), Md. (1), Va. (1).

Massachusetts 2 March 1939

The Massachusetts General Court met in Boston on 13 January 1790. The next day Governor John Hancock in a written message forwarded to the legislature the twelve amendments to the Constitution proposed by Congress in September 1789. He recommended the amendments to the legislature's "serious and careful consideration." The joint committee appointed to consider the governor's message reported that the amendments be acted upon "as soon as may be" and that 300 copies of the amendments be printed for use of the members. The Senate accepted the report on 15 January 1790; the House of Representatives concurred the next day.

On 19 January Governor Hancock addressed both houses. He praised North Carolina for ratifying the Constitution and said that he was "persuaded, that the wisdom and tried patriotism of the citizens of Rhode-Island, will very soon complete the Union of all the Independent States of America, under one system of general, national government." He also supported "the adoption of some" of the amendments proposed by Congress, noting that "the people of this Commonwealth, felt themselves assured by the proceedings of their Convention, which ratified the Constitution, that certain amendments, among which were some of those [proposed by Congress], would be effected." A joint committee appointed to draft an answer to the governor's speech reported that the legislature hoped "that the citizens of Rhode-Island will, at their ensuing Convention, exercise their wonted patriotism—and by their decisions complete the Union." The committee also assured the governor that the legislature would carefully consider the amendments to the Constitution proposed by Congress so that "the People should have the fullest confidence that their rights and liberties are secured to them in the General Government, by the

most explicit declarations, which have a tendency to give energy to its authority and laws." Both houses accepted the committee's answer on 26 January.

On 29 January the Massachusetts Senate considered the amendments to the Constitution proposed by Congress and adopted ten of the twelve (the third through twelfth) and proposed a joint committee "to consider what further amendments are necessary to be added to the Federal Constitution & report." On 2 February the lower house adopted nine of the congressional amendments (the third through eleventh) and appointed members to join those of the Senate on the joint committee to consider further amendments. The committee reported on 24 February, recommending the "principles" upon which another twelve amendments to the Constitution would be proposed. The committee recognized "the weakness and embarrassments of the Confederation" but that "a Federal Head, possessing almost entire Sovereignty, and no ways checked by the local Governments, may be equally dangerous and destructive of the system, of which it is intended as a part." The committee's objective was "to bring into view, amendments which shall secure the blessings of freedom without injuring the nerves of Government." The committee was "convinced that the people of this State, when they adopted the Constitution of the United States, wished for, and expected further amendments, than those which have been recommended; and that they are now anxious to have their liberties more explicitly secured to them." The Senate ordered that 190 copies of the report be printed for its use (Evans 22655). Because the session was almost over, consideration of the report was referred to the next session. Abigail Adams condemned the legislature's attempt "to destroy all order, & overthrow the constitution." She hoped that the additional amendments, "which Strike a deadly blow at the vitals" of the constitution would "be successfully combatted" (to Cotton Tufts, New York, 7 March 1790, *Adams Family Correspondence*, IX, 23).

Governor John Hancock Message to the General Court Council Chamber, 14 January 1790 (excerpts)¹

Since the Adjournment of the General Court, I have Received the Acts of the Congress of the United States of America passed in their first Session,² and I have directed the Secretary to lay them before you.—

As these Acts begin a System of Government, in which the prosperity of each State in particular, as well as that of all the States in general is concerned, they will command your careful attention.

Amongst the Acts of Congress you will observe one, which proposes certain Articles of Amendments to the Constitution of the United States. As it is the ardent wish of every Patriot, that the plan may be as compleat as human wisdom can effect it, this Resolve I am confident, will demand your serious and careful attention. . . .

I propose the coming Week to pay my respects to the General Court in person, in the mean time I wish the Court to be possess'd of the

Public Papers, which I now send at an earlier moment than I can attend in person. . . .

1. MS, Misc. Legislative Papers, Senate, Files No. 1139/1, Archives Division, Secretary of State, Boston. (Hereafter cited as M-Ar.) A similar manuscript copy of Hancock's speech in in the House Papers (No. 3350) and in the manuscript House Journal, p. 153. The *Massachusetts Centinel*, 16 January 1789 reported that "Mr. Secretary AVERY came down with a Message from his Excellency the Governour, communicating the Laws, &c. of the United States, with the Amendments proposed by Congress." Reprinted by the *Salem Gazette*, 19 January, and the Northampton, Mass., *Hampshire Gazette*, 3 February.

2. Probably a reference to the 105-page pamphlet edition of the acts of Congress passed at its first session which included Congress' twelve proposed amendments on pages 92–93 (Evans 22189). This pamphlet edition was offered for sale in the New York *Daily Advertiser* on 5 October 1789.

Senate Proceedings, Thursday, 14 January 1790¹

Read & Committed with the Papers accompanying to Cotton Tufts, Josiah Thacher & Benjamin Austin Jr. Esqs. with such as the Honble. House may join: to consider and report—

sent down for concurrence
Saml. Phillips, jr. Presidt

1. MS, Misc. Legislative Papers, Senate Files No. 1139/1, M-Ar.

House Proceedings, Thursday, 14 January 1790¹

Read & concurred and Mr. Bowdoin, Mr. Breck, Dr. Eustis & Dr. Jarvis are joined

David Cobb Spkr.

1. MS, Misc. Legislative Papers, Senate Files No. 1139/1, M-Ar.

Joint Committee Report on Governor Hancock's Message 15–16 January 1790 (excerpts)¹

The Committee of both Houses on the Governor's Message of the 14th Inst. with the Acts Resolutions & Journals of Congress accompanying the same, ask leave to report. . . .

2. That an Act of Congress proposing Amendments to the Constitution of the United States passed Sepr. 1789 be acted on by each House on a Day to be mutually agreed on for that Purpose (as soon as may be) And that 300 Copies of the said Act be immediately printed for the Use of the Members.² . . .

In Senate Jan'y 15, 1790. Read & accepted with an amendment sent down for concurrence.

Saml. Phillips jr. Presidt.

In the House of Representatives, Janry. 16, 1790—

Read & concurred
David Cobb Spkr.

1. MS, Misc. Legislative Papers, Senate, Files No. 1139, M-Ar. The text crossed out was marked for deletion with the words in angle brackets substituted as an amendment.

2. Congress' twelve amendments, preceded by President Washington's cover letter of 2 October 1789, was printed in Boston as an eight-page pamphlet by Thomas Adams, the state printer (Evans 22953). It perpetuated the error in the Tenth Amendment (i.e., the final Eighth Amendment) in which "cruel and unusual imprisonments inflicted" appeared instead of the correct "cruel and unusual punishments inflicted."

Senate Proceedings, Monday, 18 January 1790¹

The Secretary, came with a Message from the Governor, & informed the Senate, that his Excellency intended to meet the two Houses in the Representatives' Chamber tomorrow twelve oClock, if agreeable to them—

1. MS, Extracts of the Senate Journal, p. 159, M-Ar. Similar information was shared between the House and Senate. *Ibid.*, 161.

Governor John Hancock to the General Court, 19 January 1790 (excerpt)¹

The Acts, and proceedings of Congress, which the Secretary has laid before you, contain propositions for amendments in the Constitution of the United States: These are submitted to your deliberations, on the part of our constituents; and there can be no necessity of any other call to awaken your attention, than the interest they have in them.

I shall not be particular in my remarks on these propositions.

As Government is no other than the united consent of the people of a civil community, to be governed in a particular mode, by certain established principles, the more general the union of sentiments is, the more energetick and permanent the Government will be: Upon this idea, the adoption of some of the proposed amendments becomes very important; because, the people of this Commonwealth, felt themselves assured by the proceedings of their Convention, which ratified the Constitution, that certain amendments, amongst which were some of those, would be effected: The seventh, eighth and ninth articles, appear to me to be of great consequence. In all free governments, a share in the administration of the laws ought to be vested in, or reserved to the people; this prevents a government from verging towards despotism, secures the freedom of debate, and supports that independence of sentiment, which dignifies the citizen, and renders the government per-

manently respectable. The institutions of grand and petit Juries are admirably calculated to produce these happy effects, and to afford security to the best rights of men in civil society: These articles therefore, I believe will meet your ready approbation: Some of the others appear to me as very important to that personal security which is so truly characteristick of a free government. . . .

1. Printed in the *Massachusetts Centinel*, 20 January. Within a month ten Massachusetts, three New York, and one Pennsylvania newspapers had printed the speech. The Boston *Independent Chronicle*, 21 January, prefaced its version of Hancock's speech: "At Twelve o'clock, His Excellency The Governor, agreeably to assignment, came down to the Chamber of the House of Representatives, attended by The Secretary of the Commonwealth; and where the Senate had previously assembled—when His Excellency was pleased to deliver the following Speech." Seven newspapers reprinted this prefatory paragraph: Mass. (5), N.Y. (1), Pa. (1). Manuscript copies of Hancock's speech are in the Hancock Papers, Massachusetts Historical Society, and the Legislative Papers of the House, M-Ar.

Senate Proceedings, Tuesday, 26 January 1790¹

ORDERED, That COTTON TUFTS, THOMAS DAWES and JOSHUA THOMAS, Esq'rs. with such as the Hon. House may join, be a Committee to wait upon His Excellency the Governor, with the following Answer to His Excellency's Speech at the opening of the Session.

Sent down for concurrence.

SAMUEL PHILLIPS, jun. President.

1. Printed: *Boston Gazette*, 8 February, and reprinted in the Newburyport, Mass., *Essex Journal*, 10 February, and the *Massachusetts Spy*, 18 February.

House Proceedings, Wednesday, 27 January 1789¹

READ and concurred, and Mr. PHELPS, Dr. JARVIS, Mr. GREENLEAF, and Mr. DAVIS of Plymouth are joined.

DAVID COBB, Speaker.

1. Printed: *Boston Gazette*, 8 February 1790.

Joint Committee Response to Governor Hancock's Speech 27 January 1789¹

May it Please your Excellency,

AGREEABLY to your direction, the Secretary has laid before the two Branches of the Legislature, the proceedings of Congress, and other papers, which will be noticed with that attention their importance demands.

We are happy to find that your health is so far restored as to enable you to meet the General Court, and by a personal interview to deliver your communications.

The accession of another State to our Union, by so large a majority of its Citizens, is a happy presage of those blessing we wish to obtain by the adoption of the Federal Constitution.²—We are convinced that the strength and respectability of the confederation, essentially depend on the united exertions of all the Independent States of America. From this consideration we sincerely hope, that the citizens of Rhode Island, will at their ensuing convention exercise their wonted patriotism, and by their decisions compleat the Union. Thus allied under one Federal Government, and by paying a strict attention to its administration, we cannot but anticipate Peace, Liberty and every National Happiness.

The propositions for amendments in the Constitution of the United States, will be carefully considered by the Legislature. We are anxious that the whole body of the People should have the fullest confidence that their rights and liberties are secured to them in the general Government, by the most explicit declarations, which have a tendency to give energy to its authority and laws.

1. Printed in whole or in part in the Boston *Independent Chronicle*, 4 February; *Massachusetts Centinel*, 6 February; *Boston Gazette*, 8 February; Newburyport, Mass., *Essex Journal*, 10 February; Springfield, Mass., *Hampshire Chronicle*, 17 February; *Massachusetts Spy*, 18 February; Pittsfield, Mass., *Berkshire Chronicle*, 25 February. The transcription is taken from the *Independent Chronicle*.

2. In his speech, Hancock alluded to the ratification of the Constitution by North Carolina on 21 November 1789.

Senate Proceedings, Thursday, 28 January 1790¹

Ordered that Friday 10. oClock [29 January] be assigned for taking up the proposed amendments to the Federal Constitution.

1. MS, Senate Journal, 188, M-Ar.

Senate Proceedings, Friday, 29 January 1790¹

The amendments proposed by the Congress of the United States, to be added to the Federal Constitution, were taken up & considered, whereupon the Senate rejected the first and second, & adopted the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh & twelve Article —& ordered that Eben Bridge & Wm Leyman Esqr. with such as the Honble. House may join, be a Committee to bring in a Bill or Resolve, for the purpose of declaring the adoption—

sent down for concurrence

came up concurred, except the 12. Article which is rejected & Dr. Jarvis, Mr. Bacon & Mr. Spooner are joined—

Read & concurred

Ordered that Josiah Thacher, Benjn. Austin Junr., and ~~Saml Fowler~~ (Nathan Dane) Esqr.² with such as the Honble. House may join, be a Committee to consider what further amendments are necessary to be added to the Federal Constitution & report.

sent down for concurrence.

came up concurred & Mr. Hill, Mr. Goodman, Mr. Sewell and Mr. Bacon are joined.³

1. MS, Senate Journal, M-Ar. These events were printed in two short paragraphs in the *Massachusetts Centinel*, 3 February, and four short paragraphs in the Boston *Independent Chronicle*, 4 February. The *Centinel* version was reprinted eleven times by 8 March: N.H. (2), Mass. (3), R.I. (2), Conn. (2), N.Y. (1), S.C. (1). The *Chronicle* report was reprinted in thirteen newspapers by 17 March: Mass. (3), N.Y. (3), Pa. (4), Md. (2), S.C. (1), and in the 1790 Appendix to the Philadelphia *American Museum*.

2. Nathan Dane replaced Fowler.

3. This Senate order and the House concurrence of 2 February were printed at the beginning of the broadside printing of the committee's report on amendments.

House Proceedings, Saturday, 30 January 1790¹

The House assigned Tuesday next 10. oClk a.m. for considering the amendments proposed to be added to the Constitution of the United States.

1. MS, House Journal, 210, M-Ar.

House Proceedings, Tuesday, 2 February 1790 (excerpts)¹

The House proceeded, according to assignment, to consider the amendments of the constitution of the United States, as recommended by Congress, and the question being taken upon each of them the following were accepted viz The third, fourth, fifth, sixth, seventh, eighth, ninth, tenth & eleventh. The first and second were not accepted. The House then postponed the further consideration of the twelfth article to the afternoon.

Adjourned to 3 oClk, P.M.

. . . The House proceeded to the consideration of the twelfth article in the amendments of the Constitution of the United States, as recommended by Congress, and the question being put whether the House would accept the same, it passed in the negative. The proceedings of the House were then entered on the proceedings of the Senate and

Dr. Jarvis, Mr. Bacon & Mr. Spooner were joined to the Committee therein mentioned.

Sent up for concurrence.

1. MS, House Journal, 217–18, M-Ar.

Senate Proceedings, Tuesday, 2 February 1790¹

Came up concurred, except the 12. Article which is rejected & Dr. Jarvis, Mr. Bacon & Mr. Spooner are joined—

Read & concurred

1. MS, Senate Journal, M-Ar.

Senate Proceedings, Wednesday, 24 February 1790¹

ORDERED, that the Clerk of the Senate, cause *one hundred and ninety* Copies of the REPORT of the COMMITTEE appointed “to consider what further AMENDMENTS are necessary to be added to the FEDERAL CONSTITUTION,” to be printed forthwith, for the use of the SENATE.

Attest,—

SAMUEL COOPER, CLERK.

1. Printed: Broadside (Evans 22655).

Joint Committee Report on Amendments, 24 February 1790¹

Commonwealth of *Massachusetts*.

REPORT.

THE COMMITTEE of both HOUSES, appointed to consider further AMENDMENTS in the *Constitution* of the *United States*—

REPORT,

That having carefully examined and considered the subject referred to them; they are fully of opinion, that further Amendments in that Constitution are necessary to secure the Liberties of the People, and the blessings of a free and efficient system of Government; and that such Amendments ought now to be attended to, and made so particular, as will have a tendency to preserve the forms of a Federal Republic, and to prevent a consolidation of the States.—As this important subject, is now brought before the Legislature; and the people have a favourable opportunity to deliberate upon it, the Committee think it is proper for the General Court, at the present time, to suggest to the Members from this State in Congress, several principles of Amendments, to be attended to, as soon as the important business now before Congress, will admit.

It is with diffidence, the Committee express their opinion on this very interesting subject; but as it is made their duty, they have made it their endeavour, to consider the objects referred to them, with the attention they deserve: And though they think the States have been highly favored in laying the foundation of a good Government; yet they conceive much is to be done, to define and complete the System.

The committee in their enquiries, have been influenced by those truths and principles, which are held sacred in all free and enlightened Countries; and have inferred the proposed Amendments, from what they conceive to be the fundamental principles of a free and energetic System of Government for an extensive Community.

They feel the fullest conviction, that the liberties and prosperity of the United States, must rest on a general Government, adequate to the common defence and general welfare and on State or local governments, constitutionally secured in their proper stations; and therefore, that every good man will seasonably oppose a consolidation of the States—an event that must, probably, be attended with the loss of every thing dear to a free, virtuous and manly people.

Your Committee believe it is a truth, very generally admitted in this country, that the greatest portion of political happiness is enjoyed in that equality which prevails in well regulated Republics;—That there is a constant effort in each order of men to destroy this equality, to exalt itself and depress the others: To prevent the ruinous effects of which, many checks must be engrafted into the Constitution; and every part of the people have its constitutional influence, and proper means of defence in the government: And to this end, not only a Senatorial Branch, but a full and substantial representation of the body of the people, must be effectually provided for.

That it is a fundamental principle, that such a representation, and power to lay and collect taxes—to form and controul the military forces of a community, ought to go together in all cases, where not evidently impracticable;—And that the Legislature of the Society, ought to be so formed, that the sense of the majority therein, may correspond with the sense of the major part of the people.

That the powers of those who govern, ought to be accurately limited and defined by the instruments and compacts of association; and that where the sovereignty is divided and qualified, and lodged in a Federal Head for certain purposes, and in local Governments, to certain other purposes, the line of distinction ought to be very carefully drawn, to prevent encroachments.

On attentively examining the Constitution of the United States, the Committee are of opinion, that the powers of the general Government,

in several instances, are not well defined or limited; that there is not a just line of distinction drawn between them, and the powers of the local Governments; and that there is no such representation as before mentioned, in the Legislature of the Union.

It appears to the Committee, that it is agreeable to the very essence and design of a Federal System, that there be a general Legislature, composed of a few Members; and that a more numerous and substantial representation of the people be assembled in the State Legislatures; and, therefore it follows, that the councils of the Union, must have a natural bias to vigor, order, and an aristocratical system of policy; and that the State Governments must have a like bias to popular liberty, and popular measures: To make the democratic temper of the latter, and the different temper of the former, mutual checks on each other, and thereby conducive to the happiness of the whole, is peculiar, perhaps, to a Republic like ours; and a part of political science, yet, in some measure, to be learned.

In a single Legislature, the senatorial and popular branches prevent the extremes of each other by mutual negatives in all, or particular cases; and how far this fundamental principle can, with safety and propriety be extended to a general and State Government in a great Republic, must require much discernment and reflection, time and experience to determine: The Committee conceive, however, that some important means to lessen the abuses of democracy on the one hand, and of aristocracy on the other, now present themselves.—By encreasing and improving the representation in the general Government, and making some of the State Governments (if necessary) less popular, they will become less destructive of each other; and by giving a negative in certain cases when practicable, each will be enabled to defend itself against the other, and a medium between the extreme views of both, be happily produced; and by limiting and defining powers, and by a proper distinguishing line, each may be kept in its proper place. As the Constitution now stands, the Committee are of opinion it will cherish those natural inequalities among men, from which will in time, result constitutional distinctions, or an uneasiness in the body of the people, which, by sudden commotions may endanger or demolish the whole system.

The Committee by no means agree with those who contend, that the natural tendency of a system like ours, is towards an undue encrease of the powers of the State Governments, nor with those who contend that the democratic temper of the people, is a sufficient check upon the extensive powers of the general Government.—Certain it is, that

this temper must tend to destroy all Government, if not constitutionally directed. It must have its due weight in order to prevent the making of certain laws, or irregularly operate to prevent their execution.

This subject of Amendments is too extensive to be treated at large, or in particular detail; the Committee therefore, have more particularly in this Report, made it an object to bring into view, such principles as appear to them, to be deserving of more immediate attention.—It appears to them to be a most important object, duly to examine the legislative powers of Congress, respecting internal Taxes. The militia peace establishments, regulations of elections, the Federal Judiciary and Federal Territories, and in various ways to check and limit those powers in their exercise.—It is very obvious, that the legislative powers of the general Government, as to these objects, may be so exercised, as in a short period of time, materially to alter the condition of the Community, and the first principles of the Government: and it is, in the opinion of the Committee, equally obvious, that the body of the people, ought to have some further and more effectual controul on the formation of the Laws, and over those who make the Laws, relative to these subjects.

If it be necessary, that Congress should retain and exercise the powers vested in that Body; yet many useful checks may be provided—merely to elect the Senators and Representatives of a Federal Head, can be but imperfect security to the body of the people, against a system of politics, very repugnant to their general sentiments—for it is clear, that in a Federal Republic, the aristocratical part of the community, will very generally be elected to administer the general Government.

In altering the Constitution all agree, that the body of the people, in their State Legislatures, or in their State Conventions, ought to be consulted; because, otherwise, the public opinion could not be known, and all parts of the Federal System be secure; and perhaps, this principle, under different modifications, may well be applied to some few important cases in Federal Legislation.

The Committee are sensible, the weakness and embarrassments of the Confederation, and the many obstructions in the forms of Government in the United Netherlands, are to be avoided; but a Federal Head, possessing almost entire Sovereignty, and no ways checked by the local Governments, may be equally dangerous, and destructive of the system, of which it is intended as a part.—If a direct tax, a plan for forming the militia, or a large peace establishment [i.e., a standing army], should be proposed by the general Government, and be disapproved, by a large majority of the State Legislatures, ought such measures to be adopted?

Having made the foregoing observations, the Committee submit the following principles of Amendments for consideration, and that constitutional provision be made.

First.

That Congress shall not interfere in the regulations of the elections of its Members, except in cases, where the State Legislatures shall neglect, or refuse to make regulations; and that the qualifications of Senators and Representatives, be expressly defined in the Constitution.

Second.

That Congress erect no company with exclusive advantages of commerce.

Third.

That Congress have power to establish a uniform rule of inhabitancy or settlement of the poor of the different States throughout the United States.

Fourth.

That republican forms of Government be established in the districts which are, or shall be ceded to the United States.

Fifth.

That Congress shall by law provide for calling forth the *posse comitatus* for executing the laws of the United States.

Sixth.

That the general Government exercise no power but what is expressly delegated.

Seventh.

That a part of the internal resources of taxation be appropriated to the United States, and that a part thereof be exclusively reserved to the respective States, with such exceptions, however, and under such limitations as war and other extraordinary exigencies may require.

Eighth.

That no system for forming the militia be established, and that no establishment of troops in a time of peace, beyond a limited number, be made, if disapproved by a specified number of the State Legislatures, within a limited time after the bills for those purposes shall be laid before them.

Ninth.

That the Judiciary powers of the United States be more explicitly defined, and more accurately distinguished from those of the respective States.

Tenth.

That the Senate shall not possess all the Executive and Judicial Powers now vested in that body.

Eleventh.

That it be left to the several States, to make compensations to their Senators and Representatives respectively, for their services in Congress.

Twelfth.

That the State Legislatures have power to recall when they may think it expedient their Federal Senators, and to send others in their stead— And that the Senators be chosen, all at the same time, and for the term of four years.

In the foregoing investigations, it has been the main object of the Committee to bring into view, amendments which shall secure the blessings of freedom without injuring the nerves of Government.

As to internal taxes, the Committee further observe, that so long as there shall remain in all cases, concurrent power in Congress, and the respective State Legislatures to tax the same objects, it will be impracticable for the Union or separate States to estimate their revenues; and, consequently to estimate, with any degree of certainty, on performing their respective engagements.

Permanently to secure the liberties and happiness of America, the Committee believe a due modification of the Legislative Powers before mentioned, and further checks in the Constitution are essential; as well as a fair and honest administration of the general and local Governments.

The Committee are convinced that the people of this State, when they adopted the Constitution of the United States, wished for, and expected further amendments, than those which have been recommended; and that they are now anxious to have their liberties more explicitly secured to them.

After dilating on general principles, the Committee have brought into view more particular propositions, resting assured that from the premises laid down, will result such amendments as will answer the just expectations of all our citizens.

1. Printed: Broadside (Evans 22655). The entire report was reprinted in the *Boston Independent Chronicle*, 4 March; *Boston Gazette*, 8 March; Newburyport, Mass., *Essex Journal*, 10 March; New York *Daily Advertiser*, 11 March; *New York Journal*, 18 March; Portland, Maine, *Cumberland Gazette*, 22 March; and the January 1791 issue of the *Philadelphia American Museum*. Only the proposed amendments appeared in eleven newspapers by 10 April: Vt. (1), Mass. (1), R.I. (1), Conn. (1), N.Y. (1), N.J. (1), Md. (1), N.C. (1), Ga. (1). The report was criticized by "Honestus," in the Portland, Maine, *Cumberland Gazette*, 5 and 12 April 1790. The eleventh and twelfth proposed amendments were praised by "A Georgian," *Augusta Chronicle*, 12 June 1790.

Boston Independent Chronicle, 11 March 1790¹

The report of the Committee on further Amendments to the Federal Constitution, was read in the Senate, and voted by a large majority to

be considered; but other business intervening, and it being late in the session, it was not acted upon, but stands referred to the next session of the General Court.

A correspondent observes, that he has, with the highest satisfaction, examined the Amendments lately proposed by a very respectable Committee of the General Court; that he admires the just and comprehensive ideas in that report: The uncontrovertible principles in it, are the basis of freedom and good government.

Perhaps, (*continues our Correspondent*) some well founded objections may lay against the several State's paying their Members in Congress; and perhaps against their recalling their Senators by a bare majority.—Perhaps too, these articles are not so consistent with the general principles of the report—the main objects of which, seems to be to defend a Federal System, in which the General and State Governments shall be secure and independent in their respective and proper places.

1. Reprinted: *Pennsylvania Packet*, 5 April.

Connecticut Norwich Packet, 26 March 1790

The Commonwealth of the Massachusetts still wish for amendments to the federal constitution—At their last sessions they formed twelve articles for that purpose, and ordered the same to be laid before Congress.—The idea is truly political, if not extended so far as to be a means of involving the supreme legislature in a labyrinth, from whence they will be divested from acting upon the necessary business of the Union, which (particularly at this time) calls for the greatest exertions.

Secretary of State Thomas Jefferson to Christopher Gore Philadelphia, 8 August 1791¹

Having understood that the legislature of Massachusetts some time ago ratified some of the amendments proposed by Congress to the Constitution, I am now to beg the favour of you to procure me an authentic copy of their proceedings therein, certified under the great seal of the state, letting me know at the same time the office charges for the copy, seal &c. which shall be remitted you. The legislature of Massachusetts having been the 10th. State which has ratified, makes up threefourth of the legislatures whose ratification was to suffice. Consequently so much as they have approved, has become law, and it is proper that we should have it duly promulgated for the information of the judges, legislators, and citizens generally. I will thank you if this can be done without delay, as I am to leave this place about three weeks

hence to be absent for some time. I have the honour to be with great regard.

1. Printed: Boyd, XXII, 15–16. Gore was U.S. attorney for Massachusetts.

**Christopher Gore to Secretary of State Thomas Jefferson
Boston, 18 August 1791¹**

Immediately on receipt of your favor of the 8 inst. I applied to the office of the Secretary of the Commonwealth, for a copy of the supposed act, ratifying the amendments proposed by Congress. The Secretary inform'd me, that no such act ever passed the legislature of Massachusetts—The manner, in which the business was acted upon, and the state, in which it was left by the General Court, appears from their journals, to be as follows—The Senate agreed to all the amendments except the 1st & 2nd—the House concurr'd except as to the 12th. The Senate agreed to the alteration of the house, & appointed two of their body, with such as the house should join, to bring in a bill declaring of their Assent—the house joined one of their members to the committee—It does not appear that a Committee ever reported any bill—

1. RC, RG 11, Certificates of Ratification, DNA.

Resolutions of the Massachusetts Legislature, 2 March 1939¹

Whereas, George Washington, first President of the United States of America, in pursuance of the request of the Congress, by letter of October second, seventeen hundred and eight-nine, transmitted to John Hancock, Governor of the Commonwealth of Massachusetts, a copy of the resolution of the Congress of the United States, adopted September twenty-fifth, seventeen hundred and eighty-nine, proposing articles in addition to and amendment of the Constitution of the United States of America; and

Whereas, Governor Hancock by his message of January fourteenth, seventeen hundred and ninety, and his address of January nineteenth, seventeen hundred and ninety, submitted and commended the Constitutional amendments proposed by the Congress to the deliberations of the General Court of the Commonwealth; and

Whereas, The Tenth Legislature of the General Court was prorogued on March ninth, seventeen hundred and ninety, without the enactment of any bill or the passage of any resolve ratifying the amendments proposed by the Congress to be added to the Federal Constitution, al-

though both branches of the General Court had voted approval of Articles Third to Eleventh, inclusive; and

Whereas, This failure to act was due not to opposition to the amendments proposed by the Congress but to a desire to enlarge the rights of the people by framing further amendments; which desire took the form of postponing the conclusions of a joint committee of the House of Representatives and the Senate until a joint Committee on Further Amendments should report; and

Whereas, This situation was the direct outcome of the deep concern of the Commonwealth with guaranteeing the rights of the people by constitutional provisions, as is shown by the inclusion of a comprehensive Bill of Rights in the Massachusetts Constitution of seventeen hundred and eighty; by the incorporation in the resolution of February sixth, seventeen hundred and eighty-eight, to ratify the Constitution of the United States of America, of proposed amendments in the nature of a Bill of Rights; by the prompt several approved in January, seventeen hundred and ninety, of the majority of the amendment proposals of the Congress by the Massachusetts House of Representatives and Senate; and by the conclusive evidence of the "Report of the Committee of both Houses, appointed to consider further amendments in the Constitution of the United States" (Senate Miscellaneous Document No. 1145 of 1790); and

Whereas, It transpired that the prorogation of the Tenth Legislature of the General Court on March ninth, seventeen hundred and ninety, by the rules of procedure then in effect put an end "to all matters and things there pending", which rule was applied to the papers relative to the amendments to the Constitution of the United States of America, with the effect that they were transmitted to the Miscellaneous file of the Massachusetts archives instead of being returned to the Governor as a piece of continuing business; and

Whereas, Pursuant to the fifth article of the Constitution of the United States of America, ten of the twelve articles of amendment proposed by the Congress in the resolution of seventeen hundred and eighty-nine were in force not later than December fifteenth, seventeen hundred and ninety-one, they have been "valid to all intents and purposes, as part of this Constitution" since that date; and

Whereas, The intent and purpose of the people of Massachusetts throughout all the intervening years since seventeen hundred and ninety-one have indubitably been expressed by the Constitution of the United States of America as amended since seventeen hundred and ninety-one; and

Whereas, The General Court has adopted an act to ratify every subsequent amendment which has become a part of the Constitution of the United States of America; and

Whereas, Governor Leverett Saltonstall by Message of February first, nineteen hundred and thirty-nine, resubmitted to the Senate and House of Representatives those articles of amendment to the Constitution of the United States of America embodied in the resolution of Congress of seventeen hundred and eighty-nine which have for nearly one hundred and fifty years been accepted by the citizens of this Commonwealth as an integral part of that Constitution; and

Whereas, The General Court fully approves the Governor's recommendation of taking action now in support of the historic American Bill of Rights in order once again to fulfill its "responsibility to spread upon the records its determination to preserve liberty under our representative, democratic form of government"; and

Whereas, The message of the Governor of the Commonwealth under date of February first of the current year brings to the General Court for consideration and action the engrossed resolution communicated to his predecessor in office by President George Washington under date of October second, seventeen hundred and eighty-nine; therefore be it

Resolved, That The General Court of Massachusetts hereby agrees to, ratifies and confirms, on the part of this Commonwealth, as valid and fundamental additions to the Constitution of the United States of America Articles Third to Twelfth, both inclusive, of the articles proposed by the First Congress of the United States and which since December fifteenth, seventeen hundred and ninety-one, have been Amendments I to X, both inclusive, to that Constitution, to wit, as follows:

ARTICLES IN ADDITION TO, AND AMENDMENT OF,

The Constitution of the United States of America, proposed by congress, and ratified by the legislatures of the several states, pursuant to the fifth article of the original constitution.

[Here appears the first ten amendments]

Resolved, That a certified copy of these resolutions be forwarded by the Governor to the Secretary of State of the United States, in accordance with section two hundred and five of the Revised Statues of the United States.

1. Engrossed MS, RG 11, Certificates of Ratification, DNA. A draft copy of the resolution is in SCS1/series 230, M-Ar.

**Governor Leverett Saltonstall to Secretary of State Cordell Hull
Boston, 3 March 1939¹**

Transmitted herewith is an engrossed copy of Resolutions adopted by the General Court of the Commonwealth of Massachusetts on March 2, 1939, ratifying the first ten Amendments to the Constitution of the United States, generally known as the "Bill of Rights."

This action has been taken in furtherance of a recommendation of the Governor contained in a special message to the General Court of the Commonwealth upon discovery that the Commonwealth had never officially ratified the "Bill of Rights" above referred to, although the intent and purpose of our people have always been in warm accord with those Amendments.

Thorough research has clearly demonstrated that the Massachusetts Legislature, which was in session in 1790 and to which the Amendments were submitted for ratification, failed to act because it became involved in an attempt to propose even more inclusive definitions of the rights of the people. Certainly any other explanation would tax credulity, for our forefathers here were the authors of a State Constitution and of a State Bill of Rights which served in large part as models for the national documents. It is all the more pity that the name of Massachusetts has never appeared in support of the most fundamental statement of the principles from which we derive life, liberty, and happiness.

It seems especially fitting in this one hundred and fiftieth anniversary year for Massachusetts to remind her people that they must be forever vigilant lest that bulwark of our freedom be infringed upon by aggression and intolerance. We wish to fill that blank page in our history.

Such action will contribute effectively to a better public realization of the protection which we enjoy under the Bill of Rights. These resolutions represent the true temper of Massachusetts, through past years and in years to come. And it is sincerely to be hoped that this action, even if one hundred and fifty years belated, will serve to make present and future generations conscious of the deep significance of the Bill of Rights.

1. RC, RG 11, Certificates of Ratification, DNA.

New Hampshire **25 January 1790**

On 24 December 1789, Joseph Pearson, secretary of the New Hampshire state Senate, delivered a message from John Sullivan, president of New Hampshire, to the state House of Representatives. Among the several matters mentioned in Sullivan's message was the issue of constitutional amendments. Sullivan encouraged both houses to consider Congress' twelve proposed amendments and make a determination on the issue "as early as the nature of the business before you will admit." The House immediately selected five men to join three men from the Senate as "a Committee to take under consideration his Excellency's message."

The General Court began acting on Sullivan's admonition on 1 January 1790, the House and the Senate both agreeing that 250 copies of Congress'

proposed amendments “be printed and distributed to the members of the legislature as soon as may be, for their perusal.” On 13 January, the House, having read and considered the proposed amendments, “Voted to accept the whole of Sd. Amendments except the first & Second Articles.” On 20 January, the Senate received the House’s approval of all but the first and second of Congress’ amendments. The Senate did not concur in the House’s rejection of the first amendment. An unspecified disagreement over the final words of the first amendment, “nor more than one representative for every fifty thousand,” occupied the legislature between 20 and 25 January, when the House voted to accept “the whole of said amendments except the second article, which article was rejected.” The Senate concurred with the House on 25 January, making New Hampshire the fifth state to accept constitutional amendments. When printing the laws of the state for 1792, the pamphlet edition ends with the U.S. Constitution and the twelve amendments submitted by Congress in September 1789 (Evans 24845).

**House of Representatives Proceedings, Thursday, 24 December 1789
(excerpts)¹**

There being a quorum sufficient to transact business, information was given his Excellency and the honourable Senate thereof.

The Secretary came down and gave information that a quorum of the Senate were present, and ready to proceed to business; also delivered the following message from his Excellency the President:

Gentlemen of the Senate and House of Representatives,²

It affords me the highest pleasure to meet you again in Assembly, to advise and consult with you upon the affairs of the State, at a time when so many important matters will fall under your consideration.

The public papers received since the last session, will be laid before you by the Secretary; and among them you will find many acts and resolves of Congress which will require your deliberations. . . .

The amendments proposed by Congress to the Constitution of the United States, cannot fail of being considered and determined upon, as early as the nature of the business before you will admit.

Some other matters of importance will, from time to time, as they may be in readiness, be communicated by private messages. . . .

*Given at the Council-Chamber, in }
Portsmouth, 23d December, 1789. }*

JOHN SULLIVAN.

Voted, That Mr. Peabody, Mr. Page, Mr. Jeremiah Smith, Mr. Sheafe, and Mr. Hale, with such of the honorable Senate as they may join, be a committee to take under consideration his Excellency’s message, this day received, and report what business is necessary first to be entered upon and done at this session.

1. Printed: *A Journal of the Proceedings of the Honourable House of Representatives, of the State of New-Hampshire, Begun and held at Portsmouth, on Wednesday the 23d day of December, 1789* . . . (Portsmouth, 1790) (Evans 22699), 4–5. The printed proceedings of the House of Representatives are hereafter referred to as *House Journal*. A manuscript copy of the House journal for this day is located in the New Hampshire State Archives.

2. Sullivan's entire message was printed in the New Hampshire *Concord Herald*, 6 January 1790; *New York Gazette of the United States*, 13 January; *Pennsylvania Mercury*, 14 January; *Pennsylvania Packet*, 15 January. The paragraph on amendments was printed in the *New Hampshire Spy*, 29 December 1789, and the *New Hampshire Gazette*, 30 December.

House of Representatives Proceedings, Friday, 1 January 1790¹

Voted, That two hundred and fifty copies of the proposed amendments to the Constitution of the United States, be printed and distributed to the members of the legislature as soon as may be, for their perusal.

1. Printed: *House Journal*, 21. A manuscript copy of the House journal for this day is located in the Nh-Ar. A separate manuscript copy is in Documents, Series of 1901, 1690–1796, also in the Nh-Ar.

Senate Proceedings, Friday, 1 January 1790¹

A vote that two hundred and fifty copies of the proposed amendments to the constitution of the United States, be printed and distributed to the members of the Legislature as soon as may be for their perusal, was brought up, read and concurred.

1. Printed: *A Journal of the Proceedings of the Honorable Senate, of the State of New-Hampshire at a Session of the General-Court, Began and Held at Portsmouth, on Wednesday, December 23, 1789* (Portsmouth, 1790) (Evans 22701), 20. The printed proceedings of the Senate are hereafter referred to as *Senate Journal*. A manuscript copy of the Senate journal for this day is located in the Nh-Ar.

House of Representatives Proceedings, Wednesday, 13 January 1790¹

Upon Reading & maturely Considering the proposed amendments to the Federal Constitution Voted to accept the whole of Sd. Amendments except the first & Second Articles which first and Second articles were rejected

Sent up for Concurrence
Thos. Bartlett Speaker

1. MS, Documents, Series of 1901, 1690–1796, Nh-Ar.

Senate Proceedings, Wednesday, 20 January 1790¹

A vote to accept the whole of the amendments to the federal constitution except the first and second articles, which first and second

articles were rejected, was brought up, read and concurred with this amendment, that the second article only be rejected and that all the other amendments be accepted,—sent down—brought up, read and concurred excepting the following words in the latter part of the first article [“]nor more than one representative for every fifty thousand.[”]

1. Printed: *Senate Journal*, 50. A manuscript copy of the Senate journal for this day is located in the Nh-Ar. A separate manuscript copy is in Documents, Series of 1901, 1690–1796, also in the Nh-Ar.

Senate Proceedings, Thursday, 21 January 1790¹

Voted that His Excellency the President & the Hon. John Pickering Esq & Nathl. Rogers with such of the Hon House as they may join, be a Committee to confer on the within vote & report there on

Sent down for Concurrence

J. Pearson Secy

1. MS, Documents, Series of 1901, 1690–1796, Nh-Ar.

House of Representatives Proceedings, Thursday, 21 January 1790¹

The Same Day read and Concurred. Mr. Smith, Mr. Peabody, Mr. Page, Mr. Abbot & Mr. Betten Joind.

Thos. Bartlett Spemaker

1. MS, Documents, Series of 1901, 1690–1796, Nh-Ar.

House of Representatives Proceedings, Monday, 25 January 1790¹

Upon reading and considering the proposed amendments to the federal constitution, Voted, to accept the whole of said amendments except the second article, which article was rejected.

1. Printed: *House Journal*, 90. A manuscript copy of the House journal for this day is located in the Nh-Ar. A separate manuscript copy is in Documents, Series of 1901, 1690–1796, also in the Nh-Ar.

Senate Proceedings, Monday, 25 January 1790¹

A vote to accept the whole of the amendments to the federal constitution except the second article which was rejected, was brought up, read and concurred.

1. Printed: *Senate Journal*, 64. A manuscript copy of the Senate journal for this day is located in the Nh-Ar. A separate manuscript copy is in Documents, Series of 1901, 1690–1796, also in the Nh-Ar.

**New Hampshire General Court Accepts Constitutional Amendments
25 January 1790¹**

In the House of Representatives Jany 25th. 1790.
Upon reading & maturely considering the proposed amendments to
the federal Constitution,

Voted to accept the whole of said Amendments except the second
Article which was rejected—

Sent up for Concurrence

Thos. Bartlett Speaker

In Senate the same day read & concurred

J. Pearson Secy

A true copy

Attest Joseph Pearson Secy

1. MS, RG 11, Certificates of Ratification, DNA.

New Hampshire Gazette, 27 January 1790¹

The Hon. General-Court, after maturely considering of the proposed
amendments to the United States Constitution have acceded to them
all, except the second article, which they have rejected in gross.

1. Reprinted fifteen times by 9 March: Vt. (1), Mass. (3), R.I. (2), Conn. (2), N.Y. (3),
Pa. (2), Md. (1), S.C. (1). The *New York Journal*, 11 February, reported that “The Legis-
lature of New-Hampshire have acceded to all those amendments to the constitution of
the United States that were proposed by Congress, except the second, which they totally
rejected” (reprinted in the Philadelphia *Independent Gazetteer*, 13 February; Lansingburgh,
N.Y. *Federal Herald*, 15 February; New York *Hudson Weekly Gazette*, 18 February; and the
Virginia Independent Chronicle, 24 February).

**President John Sullivan to President George Washington
Durham, N.H., 29 January 1790¹**

I have the honor to inclose you for the Information of Congress a
vote of the assembly of this State to Accept all the Articles of Amend-
ments to the Constitution, of the united states Except the Second which
was rejected; I have the honor to be with the most profound respect
sir your most obedient and very humble Servt,

1. RC, RG 11, Certificates of Ratification, DNA. The letter is docketed: “President of
NHampshire transmitting certified copy of vote of the Legislature accepting the Amend-
ments to the Constitution except the second Article.” According to the docketing, Sul-
livan’s letter was received on 16 February 1790.

Tobias Lear to Roger Alden, 16 February 1790¹

In obedience to the command of the President of the United States, I now transmit to you, to be deposited in the Office of the Secy of State—The certified Copy of a Vote of the Legislature of the State of New Hampshire to accept the Articles of Amendment proposed for the Constitution of the United States except the second Article;—and also a Letter, which accompanied said Vote, from John Sullivan President of the State of New-Hampshire to the President of the United States.

with very great esteem, I am, Sir yr most Obedt. Servt

1. RC, RG 11, Certificates of Ratification, DNA. Lear's signature is followed by the initials "S.P.U.S.," which identifies him as "Secretary of the President of the United States."

New York Gazette of the United States, 17 February 1790¹

A message was received from the President of the United States, with a letter from his Excel. President Sullivan enclosing the act of the Legislature of the State of New-Hampshire, for adopting the amendments proposed by Congress to the Constitution—except the second.

1. Reprinted in nine newspapers by 15 March: Mass. (2), R.I. (1), Conn. (3), Md. (1), Va. (1), S.C. (1), and in the April 1790 issue of the *New York Magazine*.

New Jersey 20 November 1789

On 28 October 1789, Governor William Livingston sent a message to the New Jersey General Assembly that enclosed a number of "Public Papers and Acts" for its consideration. Among the documents were (1) Congress' twelve proposed amendments; (2) Congress' resolution transmitting those amendments to the states; and (3) a letter from New York governor George Clinton on the subject of constitutional amendments. Three members of the General Assembly were chosen as a committee to "select out" any items among the papers and acts that required "the particular attention and order of the House." On the following day, 29 October, one of the members, John Witherspoon, reported that the issue of constitutional amendments, in addition to several other issues, required the Assembly's "serious attention."

On that same day, thirteen assemblymen took up the issue of constitutional amendments. That committee, which was to report back to the Assembly once opinion solidified, was left open to other assemblymen who had interest in the matter. On 4 November, the Assembly informed New Jersey's upper house, the Legislative Council, of its actions and requested the Council to select its own committee "to join the Committee of this House" to continue considering the

matter. Once the joint committee arrived at a conclusion, both houses of the legislature would be informed of the committee's opinion. The Assembly also requested that the Council appoint the time and place for the joint committee to meet. The Council responded to the Assembly on the same day and selected four of its members to sit on the joint committee. The Council named "the Assembly-Room" as a meeting place; the time and day would be 4:00 P.M. on 5 November, the following day. The meeting took place as expected.

On 6 November, members of the joint committee reported the committee's deliberations to the upper and lower houses—Jonathan Dayton reported to the Legislative Council; Isaac Nicoll to the General Assembly. According to Nicoll and Dayton, the joint committee "unanimously agreed" on its report, and the two men recommended that their respective houses "Adopt and Ratify on the Part, and in behalf of the People of this State, the first, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth Articles of the Amendments so as aforesaid proposed by Congress." The Assembly received Nicoll's report and ordered it to be read a second time. Dayton's report was read twice in the Council and approved the same day. Three days later, on 9 November, the Assembly ordered a second reading of Nicoll's report and approved it.

On 10 November 1789, Dr. Ebenezer Elmer, an assemblyman and member of the joint committee on amendments, reported a draft of the bill to ratify Congress' amendments: "An Act to ratify on the part of this State, certain amendments to the Constitution of the United States." On 18 November, the bill "was read a second Time [in the Assembly], debated, and ordered to be engrossed." On the following day, the bill was "read and compared" and passed unanimously. John Beatty, speaker of the Assembly, signed the bill, and the Assembly ordered one of its members to deliver the bill to the Council for its concurrence. The same day, the Council read the bill two times, morning and afternoon. On 20 November, the Council read the bill a third and final time and voted unanimously in its favor. As president of the Legislative Council, Governor William Livingston signed the bill and a member of the Council reported the bill's passage to the Assembly, making New Jersey the first state to accept constitutional amendments.

General Assembly Proceedings, Wednesday, 28 October 1789 (excerpts)¹

A Message from His Excellency the Governor, was delivered by the Secretary with the Papers described in the following List:

List of the Public Papers and Acts referred to in the Governors Message. . . .

- No. 23. A Copy of the Amendments proposed to be added to the Constitution of the United States.
- 24. Copy of the Resolution of Congress for transmitting those Amendments, &c.
- 24. A Letter from His Excellency Governor Clinton on that subject.² . . .

Which Message and the list accompanying the same were read, and committed to Messrs Witherspoon, Nicoll and Jones, who are requested to select out of the same, such as require the particular attention and the order of the House, and report their Opinion as to the remainder of the said Papers.

1. Printed: *Votes and Proceedings of the Fourteenth General Assembly of the State of New-Jersey. At a Session begun at Perth-Amboy on the 27th Day of October 1789*. . . (New Brunswick, 1789) (Evans 22714), 8–10. The printed proceedings of the General Assembly are hereafter cited to as *Assembly Proceedings*. A manuscript copy of the General Assembly's proceedings is in the New Jersey State Archives, Trenton.

2. The duplicate use of No. 24 is in the printed proceedings. The list of "Public Papers and Acts" continues with No. 25, so the editors have not silently corrected the error, which would have entailed renumbering the rest of the list. Whether the numbering was intentional is unknown.

General Assembly Proceedings, Thursday, 29 October 1789 (excerpts)¹

Mr. Witherspoon from the Committee to whom the message from His Excellency the Governor with the communications therewith transmitted, were referred, beg leave to recommend to serious attention, No. 22, 23, 29 and 35, and that the remainder of them be safely kept among the Papers of this House.

By order of the Committee.

JOHN WITHERSPOON.

. . . No. 23, Containing a copy of the Amendments proposed to be Added to the Constitution of the United States, was read and referred to Messrs Nicoll, Marsh, Bonny, Stillwell, Witherspoon, Jones,² Davenport, Hall, Elijah Townsend, Corshon, Kitchel, Dr. Elmer and Hankinson, with such other Members as choose to attend to report thereon to the House.

1. Printed: *Assembly Proceedings*, 11.

2. Robert Strettle Jones of Burlington does not appear in the list of committee members of 4 November (immediately below). This may have been an oversight, for Jones reappeared with committee member Ebenezer Elmer on 9 November (below), one day before the committee reported a draft of the bill to ratify constitutional amendments.

General Assembly Proceedings, Wednesday, 4 November 1789 (excerpts)¹

Ordered, That Mr. Biddle do wait on the Council and acquaint them, that this House have referred the Amendments proposed by Congress to be added to the Constitution of the United States, to Messrs Nicoll, Marsh, Bonny, Stillwell, Witherspoon, Davenport, Hall, Elijah Town-

send, Corshon, Kitchel, Dr. Elmer and Handkinson, with such other Members as choose to attend, and to request them to appoint a Committee to join the Committee of this House on that Business, to report to the (seperate)² Houses their Opinion thereon, and that Council appoint the Time and Place of meeting. . . .

Mr. Biddle reported that he had obeyed the Order of the House.

A Message from the Council by Mr. Mayhew.

Mr. Speaker—The Council have appointed Messrs Dayton, Van-Cleve, Woodhull and Martin, to be a Committee to join the Committee of the House of Assembly with such other Members as choose to attend, to take into consideration the Amendments proposed by Congress, to be added to the Constitution of the United States, and that Council do propose To-morrow at four o'Clock in the afternoon for the Time, and the Assembly-Room for the Place of the meeting of the abovesaid Committees.

1. Printed: *Assembly Proceedings*, 21–22.

2. The manuscript version of the Assembly's proceedings reads "several" instead of "seperate."

Legislative Council Proceedings, Wednesday, 4 November 1789¹

A Message from the House of Assembly by Mr. Biddle, in the words following:

[The House of Assembly's appointment of twelve members to a committee on 4 November 1790 appears here.]

Ordered, That Messrs Dayton, Van-Cleve, Woodhull and Martin, be a Committee to join the Committee of the House of Assembly, with such other Members as choose to attend, for the purpose mentioned in the foregoing Message, and that Council do propose To-morrow at four o'Clock in the Afternoon for the Time, and the Assembly Room for the Place of the Meeting of the said Committees, and that Mr. Mayhew do wait on the House of Assembly, and acquaint them therewith.

Mr. Mayhew reported, that he had obeyed the order of the House.

1. Printed: *A Journal of the Proceedings of the Legislative-Council of the State of New-Jersey, In General Assembly convened at Perth-Amboy on the Twenty-seventh Day of October, One Thousand Seven Hundred and Eighty-nine* (New Brunswick, 1789) (Evans 22004), 7–8. The printed proceedings of the Legislative Council are hereafter referred to as *Council Proceedings*.

General Assembly Proceedings, Thursday, 5 November 1789¹

The Members withdrew to attend a Conference with the Council on the amendments proposed to the Constitution of the United States.

1. Printed: *Assembly Proceedings*, 26.

Legislative Council Proceedings, Thursday, 5 November 1789¹

The House withdrew to attend a Joint Conference of both Houses, and having returned, therefrom,

The House adjourned until nine o'Clock To-morrow Morning.

1. Printed: *Council Proceedings*, 9.

General Assembly Proceedings, Friday, 6 November 1789¹

Mr. Nicoll from the Committee appointed by the Council and Assembly, to take into consideration the Articles proposed by Congress in addition to and Amendment of the Constitution of the United States, and report thereon, having had a conference upon, and duly considered and discussed the Subject committed to them, have unanimously agreed to report and recommend it to their respective Houses, to Adopt and Ratify on the Part, and in behalf of the People of this State, the first, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth Articles of the Amendments so as aforesaid proposed by Congress, and by both Houses committed to them,

By order of the ⟨House,⟩²

JONATHAN DAYTON,
ISAAC NICOLL.

Which report was read and ordered a second reading.

1. Printed: *Assembly Proceedings*, 26–27.

2. The manuscript version of the Assembly's proceedings reads "Committee" instead of "House."

Legislative Council Proceedings, Friday, 6 November 1789¹

Mr. Dayton from the Committee, appointed on the part of Council, to join the Committee of the House of Assembly, to take into consideration and report upon the amendments proposed by Congress to be added to the Constitution of the United States, acquainted the House he was ready to report whenever the House would be pleased to receive the same.

Ordered, That the said Report be made immediately. Whereupon, Mr. Dayton read the said report in his place, and delivered the same at the Table, which report is in the words following:

[Here appears the report of the joint committee printed in the General Assembly Proceedings, 6 November, immediately above.]

By order of the Committees,

JONATHAN DAYTON,
ISAAC NICOLL.

Which report being again read,
Resolved, That the House do approve thereof. . . .

1. Printed: *Council Proceedings*, 9.

General Assembly Proceedings, Monday, 9 November 1789¹

The report of Mr. Nicoll of the 6th Instant, was read a second Time, agreed to, and committed to Messrs Dr. Elmer and Jones.

1. Printed: *Assembly Proceedings*, 33.

General Assembly Proceedings, Tuesday, 10 November 1789¹

Dr. Elmer from the Committee appointed for that purpose, reported the Draught of a Bill intituled, “An Act to ratify on the part of this State, certain amendments to the Constitution of the United States,” which was read, and ordered a second reading.

1. Printed: *Assembly Proceedings*, 35.

New Jersey Journal, 11 November 1789¹

We hear from Amboy that the proposed amendments to the constitution of the United States, have been under consideration of the legislature, and will be all agreed to except the second article.—

1. Reprinted (sometimes with minor variations) thirty-one times by 23 December: N.H. (3), Mass. (4), R.I. (3), Conn. (2), N.Y. (6), Pa. (7), Md. (1), Va. (4), N.C. (1).

General Assembly Proceedings, Wednesday, 18 November 1789¹

The Bill intituled, “An Act to ratify on the part of this State, certain Amendments to the Constitution of the United States,” was read a second Time, debated, and ordered to be engrossed.

1. Printed: *Assembly Proceedings*, 80.

General Assembly Proceedings, Thursday, 19 November 1789¹

The engrossed Bill, intituled, “An Act to ratify on the Part of this State, certain Amendments to the Constitution of the United States,” was read and compared.

Resolved unanimously, That the same do pass.

Ordered, That the Speaker do sign the same.

Ordered, That Mr. Holmes do carry the said Bill to Council for concurrence.

1. Printed: *Assembly Proceedings*, 80.

Legislative Council Proceedings, Thursday, A.M., 19 November 1789¹

Mr. Holmes from the House of Assembly, presented to this House for concurrence, a Bill, intituled, “An Act to ratify on the part of this State, certain amendments to the Constitution of the United States,” which was read and ordered a second reading.

1. Printed: *Council Proceedings*, 21.

Legislative Council Proceedings, Thursday, P.M., 19 November 1789¹

The Bill, intituled, “An Act to ratify on the part of this State, certain amendments to the Constitution of the United States,” was read a second Time, and ordered a third reading.

1. Printed: *Council Proceedings*, 21.

Legislative Council Proceedings, Friday, 20 November 1789¹

The Bill, intituled, “An Act to ratify on the part of this State, certain amendments to the Constitution of the United States,” was read a third Time.

On the question, whether the said Bill do pass, it was carried in the Affirmative, *nem. con.*

Ordered, That the President do sign the same.

Ordered, That Mr. Randolph do wait on the House of Assembly and acquaint them, that the said Bill is passed by this House without amendment.

Mr. Randolph reported, that he had obeyed the order of the House.

1. Printed: *Council Proceedings*, 22.

General Assembly Proceedings, Friday, 20 November 1789¹

A Message from the Council by Mr. Randolph.

Mr. Speaker—I am directed to wait on the House of Assembly, and acquaint them, that the Bill intituled, “An Act to ratify on the part of this State, certain Amendments to the Constitution of the United States,” is passed by Council without amendments.

1. Printed: *Assembly Proceedings*, 86.

**New Jersey Act Ratifying Constitutional Amendments
20 November 1789¹**

An ACT to ratify on the Part of this State certain Amendments to the Constitution of the United States.

Whereas the Congress of the United States, begun and held at the City of New-York on Wednesday the fourth Day of March One Thousand Seven Hundred and Eighty-nine, Resolved, two thirds of both Houses concurring that sundry Articles be proposed to the Legislatures of the several States as Amendments to the Constitution of the United States, all or any of which Articles when ratified by three-fourths of the said Legislatures to be valid to all Intents and Purposes as Part of the said Constitution: And whereas the President of the United States did, in pursuance of a Resolve of the Senate and House of Representatives of the United States of America in Congress assembled, transmit to the Governor of this State the Amendments proposed by Congress, which were by him laid before the Legislature for their Consideration; wherefore,

Sect. 1. BE IT ENACTED by the Council and General Assembly of this State, and it is hereby Enacted by the Authority of the same, That the following Articles, proposed by Congress in Addition to and Amendment of the Constitution of the United States; to wit.

[With the exception of the second amendment, which New Jersey did not approve, here follows the text of Congress' proposed amendments.]

be and the same are hereby Ratified and Adopted by the State of New-Jersey.

A. Passed at Perth-Amboy, November 20, 1789.

1. Printed: *Acts of the Fourteenth General Assembly of the State of New-Jersey. At a Session begun at Perth-Amboy on the 27th Day of October 1789 . . .* (New Brunswick, 1789) (Evans 22003), chap. 268, pp. 536–37.

**Certification of the Act Ratifying Constitutional Amendments
3 August 1790 (excerpts)¹**

State of New Jersey.

The Honorable Elisha Lawrence Esquire, Vice President, Captain General and Commander in Chief in and over the State of New-Jersey and Territories thereunto belonging Chancellor and Ordinary in the same.—

To all to whom these Presents shall come Greeting.

These are to Certify. That Bowes Reed Esqr. whose name is subscribed to the annexed Certificate, certifying the annexed Law, to be

a true Copy taken from the Original enrolled in his Office, is, and was at the time of signing thereof, Secretary of the State of New Jersey; and that full faith and credit is and ought to be due to his attestation as such.

In Testimony whereof I have hereunto subscribed my name and caused the Great Seal of the State of New Jersey to be hereunto affixed at the City of Burlington the third day of August in the year of Our Lord One thousand seven hundred and ninety, and of Our Independence the fifteenth.—

By his Honors Comand.

Elisha Lawrence.

Bowes Reed Secy . . .

These are to Certify that the annexed Law is a true Copy taken from the Original enrolled in my Office.

Bowes Reed, Secy

1. RC, RG 11, Certificates of Ratification, DNA. On 26 November 1790, New Jersey's Legislative Council and General Assembly passed an act ordering the state treasurer to pay several people for services rendered, including Reed, who as secretary of state was responsible for "an exemplified Copy" of the act to ratify constitutional amendments. For the law paying Reed and others, see "An Act for defraying sundry incidental Charges," in *Acts of the Fifteenth General Assembly of the State of New-Jersey . . .* (Burlington, 1790) (Evans 22711), chap. 345, pp. 712–13.

**New Jersey Vice President Elisha Lawrence to
President George Washington, Burlington, N.J., 4 August 1790¹**

I have the Honour to transmit An Exemplified Copy of A Law of the State of New-Jersey, Ratifying Certain Amendments to the Constitution of the United States,—

I have the Honour to be Your Most Obdt. Humbl. Servt.

1. RC, RG 11, Certificates of Ratification, DNA. The letter is docketed: "Elisha Lawrence enclosing Ratification of amendments to Constitution of U.S. by N. Jersey." According to the docketing, Lawrence's letter was received on 6 August 1790.

**President George Washington to the U.S. Senate and
House of Representatives, New York, 6 August 1790¹**

Gentlemen of the Senate and House of Representatives,

I have directed my Secretary to lay before you a Copy of an exemplified Copy of a Law, to ratify, on the part of the State of New Jersey, certain Amendments to the Constitution of the United States; together with the Copy of a letter which accompanied said ratification, from The Honorable Elisha Lawrence Esquire Vice President of the State of New Jersey to the President of the United States.

1. RC, Washington Papers, DLC. The New York *Gazette of the United States*, 7 August 1790, reported: "A message was received from the President of the United States with the ratification by the State of New-Jersey, of the amendments proposed by Congress to the constitution of the United States; New-Jersey has ratified all the amendments except the *second* and *thirteenth*. This report was reprinted in twenty newspapers by 1 September: Mass. (6), R.I. (1), Conn. (2), N.Y. (1), Pa. (2), Md. (3), Va. (4), N.C. (1); and in the October 1790 issue of *New York Magazine*. A similar report, without the last clause was printed in the New York *Daily Advertiser*, 7 August 1790, and reprinted seven times by 14 August: N.Y. (4), Pa. (3). Another similar report was said to have been communicated by "a letter from Elisha Lawrence, Esq. Governor of New Jersey" (Baltimore *Maryland Gazette*, 17 August 1790; reprinted in the Connecticut *Norwich Packet*, 20 August).

**Memorandum Book: Entry Regarding the Ratification
of Amendments by New Jersey, 5 August 1790¹**

Received from the President of the United States, a Letter to him from Elisha Lawrence of August 4th. enclosing an exemplification of an Act to ratify, on the part of the State of New Jersey, certain amendments to the Constitution of the United States.—

1. MS, RG 360, PCC, Item 187, Memorandum Book of the Department of State, 1789–95, DNA.

**New York
27 February 1790**

On Tuesday morning, 12 January 1790, the New York state Senate convened, called upon the Assembly to do the same, and informed Governor George Clinton that it was "ready to proceed on business." On 13 January, the Assembly met and notified the Senate and governor of its readiness "to proceed on business." Hours later, the Assembly received the governor's message that included the twelve amendments to the Constitution proposed by Congress. Both houses voted on 13 January to consider the governor's message in committees of the whole. On 20 and 23 January, the Senate considered the amendments. On 22 January the Assembly assigned 26 January as the day to consider Congress' amendments in a committee of the whole.

On 26 January, the Senate committee reported that it "had rejected the second amendment, and unanimously agreed to all the other of the said amendments." After reading and approving the committee's report, the Senate "ordered, That the committee have leave to sit again." Later that day, the Assembly committee of the whole reported and the Assembly voted to reject the second amendment, but agreed to the remaining eleven and ordered a five-person committee "to report the form of a ratification of the said amendments." On 4 February, the Senate committee of the whole recommended the appointment of a special committee "to devise and report a mode for the ratification of the amendments." On 12 February, the Assembly committee reported a bill entitled, "An act ratifying certain articles in addition to, and amendment of

the Constitution of the United States of America, proposed by the Congress," which was read and ordered a second reading. Eight days later, on 20 February, the Assembly committee of the whole reported that "the said articles, except the second, shall be, and hereby are ratified by the Legislature of this State." The Assembly agreed to the report without amendments and ordered the bill engrossed. On 22 February, the Assembly read the engrossed bill a third time, passed it, and sent it to the Senate.

On 22 February, the Senate read the Assembly's engrossed bill and ordered a second reading. The next day, 23 February, after the bill's second reading, the Senate sent it to a committee of the whole. The following day, 24 February, the Senate committee of the whole reported that it approved the bill without amendments and the Senate agreed with the report. The Senate passed the bill, and sent it back to the Assembly. On 24 February, the Assembly received the passed bill from the Senate, and transmitted it to the Council of Revision. On both 25 and 27 February, the council reviewed the bill, and resolved that "it does not appear improper to the Council that the said bills should respectively become Laws of this State." Accordingly, the council ordered it to be signed by Governor Clinton and sent notification to the Assembly. Later, on 27 February, the Assembly received the council's resolution and sent it to the Senate, which read it on 1 March.

On 16 March, the Assembly resolved, with the concurrence of the Senate, to exemplify the act to ratify the amendments to the Constitution and ordered that the resolution be delivered to the Senate. Three days later, the Senate concurred with the resolution and notified the Assembly. Upon receiving the Senate's concurrence, the Assembly transmitted a copy of the resolution to Governor Clinton. On 27 March, Governor Clinton signed the exemplification of New York's ratification of the amendments to the Constitution; and, on 2 April, he transmitted it to President George Washington.

Senate Proceedings, Tuesday, A.M., 12 January 1790¹

Ordered, That Mr. Van Ness and Mr. Vanderbilt wait on his Excellency the Governor, and inform him that the Senate are met, and ready to proceed on business.

Ordered, That Mr. Williams and Mr. Savage wait on the Honorable the Assembly, with the like message.

Mr. Van Ness reported that Mr. Vanderbilt and himself had, agreeable to the order of the Senate, waited on his Excellency the Governor, with their message; when his Excellency was pleased to say, that as soon as he should receive a like message from the Honorable the Assembly, he would send a message to the Legislature.

Then the Senate adjourned until eleven of the clock to-morrow morning.

1. Printed: *Journal of the Senate of the State of New-York*, (New York, 1790) (Evans 22719), 3. Hereafter cited as *Senate Journal*.

Assembly Proceedings, Wednesday, 13 January 1790 (excerpts)¹

Ordered, That Mr. Watts, and Mr. Crane, junior, wait on his Excellency the Governor, and inform him that this House is met, and ready to proceed on business.

Ordered, That Mr. J. Smith, and Mr. Morgan, wait on the Honorable the Senate, and inform them that this House is met, and ready to proceed on business. . . .

A message from the Honorable the Senate, was delivered by Mr. Williams and Mr. Savage, that the Senate are met, and ready to proceed on business.

Mr. Watts reported that, pursuant to the order of the House, Mr. Crane, junior, and himself, had waited on his Excellency the Governor, with the message from this House, who had been pleased to say that he would immediately send a message to the Legislature.

Mr. J. Smith reported that, pursuant to the order of the House, Mr. Morgan and himself had delivered the message from this House to the Honorable the Senate. . . .

⟨A message from his Excellency the Governor, to the Legislature, delivered by his private secretary, was read, and is in the words following, viz.

Gentlemen of the Legislature,

THE amendments proposed to the Constitution of the United States, and the other communications which have been made to me in your recess, by the direction of Congress, will be submitted to your consideration with this message.) . . .

Ordered, That the said message of his Excellency the Governor, and the several matters which accompanied the same, be committed to a committee of the whole House. . . .

The House resolved itself into a committee of the whole House, on the message from his Excellency the Governor, and the several acts of Congress and communications which accompanied the same; and after some time spent thereon, Mr. Speaker re-assumed the chair—

1. Printed: *Journal of the House of Assembly of the State of New-York* (New York, 1790), (Evans 22718), 3–4. Hereafter cited as *Assembly Journal*. The text within angle brackets was printed in the *New York Journal*, the *New York Packet*, and the *New York Daily Advertiser* on 14 January and reprinted in six other newspapers by 22 January: N.Y. (4), Pa. (1), Md. (1).

Senate Proceedings, Wednesday, 13 January 1790 (excerpts)¹

A message from the Honorable the Assembly, by Mr. J. Smith and Mr. Morgan, was received, informing that they were met, and ready to proceed on business. . . .

A message from his Excellency the Governor, transmitted by the Honorable the Assembly, was received, and read, viz.

[Governor Clinton's message appears here in the *Senate Journal*. See immediately above.]

Ordered, That his Excellency's message, with the several papers accompanying the same, be committed to a committee of the whole.

The Senate thereupon resolved itself into a committee of the whole, on his Excellency's said message, and the papers accompanying it. After some time spent thereon, Mr. President re-assumed the chair; and Mr. Williams, from the committee, reported that they had made some progress, and directed him to move for leave to sit again.

Ordered, That the committee have leave to sit again.

1. Printed: *Senate Journal*, 3–4.

Assembly Proceedings, Thursday, 14 January 1790¹

Mr. Watts, from the committee of the whole House on the message of his Excellency the Governor, and the several acts of Congress and communications which accompanied the same reported, that the committee had agreed to certain resolutions, which he was directed to report to the House; and that he was directed to move for leave to sit again.

1. Printed: *Assembly Journal*, 5.

Senate Proceedings, Wednesday, 20 January 1790¹

Ordered, That Saturday next be assigned to take into consideration the amendments proposed to be made to the Constitution of the United States.

1. Printed: *Senate Journal*, 7.

Assembly Proceedings, Friday, 22 January 1790 (excerpts)¹

Mr. Watts, from the committee of the whole House, on the message of His Excellency the Governor, of the 13th instant, and the several acts of Congress, and communications which accompanied the same, reported, that the committee had agreed to resolutions which he was directed to report to the House, in the words following, viz.

“*Resolved*, That it is the opinion of this committee, that this House should on Tuesday next resolve itself into a committee of the whole House, on the amendments proposed by Congress to the Constitution of the United States.”² . . .

Mr. Watts read the said report in his place, and delivered the same in at the table, where the same was again read, and agreed to by the House. Thereupon,

Resolved, That this House will on Tuesday next resolve itself into a committee of the whole House, on the amendments proposed by Congress to the Constitution of the United States.

1. Printed: *Assembly Journal*, 15.
2. The resolution was printed in the *New York Daily Gazette*, 23 January.

Senate Proceedings, Saturday, 23 January 1790¹

The Senate, agreeable to the order of the day, resolved itself into a committee of the whole, on the amendments proposed to be made to the Constitution of the United States. After some time spent thereon, Mr. President re-assumed the chair; and Mr. Williams, from the committee, reported that they had made some progress therein, and had directed him to move for leave to sit again; which report being agreed to by the Senate—Thereupon,

Ordered, That the committee have leave to sit again.

Then the Senate adjourned until ten of the clock on Monday morning next.

1. Printed: *Senate Journal*, 9.

Senate Proceedings, Tuesday, 26 January 1790¹

Mr. Williams, from the committee of the whole on his Excellency the Governor's message, and to whom was referred the amendments proposed to be made to the Constitution of the United States, reported, that the committee had gone through the several amendments, had rejected the second amendment, and unanimously agreed to all the other of the said amendments—and had directed him to move for leave to sit again; which report he read in his place, and delivered the same in at the table, where it was again read and agreed to by the Senate: Thereupon,

Ordered, That the committee have leave to sit again.

1. Printed: *Senate Journal*, 10.

Assembly Proceedings, Tuesday, 26 January 1790¹

The order of the day having been read, the House resolved into a committee of the whole House, on the amendments proposed by Congress to the Constitution of the United States; and after some time

spent thereon, Mr. Speaker reassumed the chair, and Mr. Watts from the said committee reported, that the said proposed amendments having been read, the second article was again read in the words following, viz.

“No law varying the compensation for the services of the Senators and Representatives shall take effect, until an election of Representatives shall have intervened.”

That the question having been put, whether the committee did agree to the same, it passed in the negative, in the manner following, viz.

FOR THE NEGATIVE [52].

Mr. Clarkson,	Mr. Crane, junior,	Mr. Sickels,
Mr. Will,	Mr. Morgan,	Mr. Coe,
Mr. Randall,	Mr. Rowan,	Mr. Marvin,
Mr. Post,	Mr. Savage,	Mr. Crane,
Mr. Childs,	Mr. S. Van Rensselaer,	Mr. Bronck,
Mr. J. Smith,	Mr. H. Van Rensselaer,	Mr. Myers,
Mr. Landon,	Mr. Younglove,	Mr. M'Master,
Mr. Clowes,	Mr. Van Cortlandt,	Mr. Tillotson,
Mr. Cornwell,	Mr. J. Brown,	Mr. Veeder,
Mr. Jones,	Mr. Arndt,	Mr. Livingston,
Mr. Carman,	Mr. Converse,	Mr. Carpenter,
Mr. Vandervoort,	Mr. Gardiner,	Mr. Hitchcock,
Mr. Winant,	Mr. Havens,	Mr. Talman,
Mr. Bancker,	Mr. Schoonmaker,	Mr. Tappen,
Mr. Rockwell,	Mr. Clark,	Mr. Gilbert,
Mr. Horton,	Mr. Bruyn,	Mr. Van Veghten,
Mr. Griffen,	Mr. Smith,	Mr. Seaman.
Mr. Barker,		

FOR THE AFFIRMATIVE [5].

Mr. Speaker,	Mr. Scudder,	Mr. Lewis.
Mr. King,	Mr. Giles,	

That the committee had gone through the other amendments, and agreed to the same.

Mr. Watts read the report in his place, and delivered the same in at the table, where it was again read, and agreed to by the House.

Ordered, That Mr. King, Mr. Jones, Mr. Havens, Mr. Livingston and Mr. Gilbert, be a committee to report the form of a ratification of the said amendments.

1. Printed: *Assembly Journal*, 19. Reports of the Assembly proceedings were printed in the *New York Daily Gazette*, 27 January, and the *Pennsylvania Packet*, 10 February.

Senate Proceedings, Thursday, 4 February 1790¹

Mr. Williams, from the committee of the whole, to whom was referred his Excellency's messages, and the papers accompanying the same, reported, that it was the opinion of the committee, that a special committee be appointed, to devise and report a mode for the ratification of the amendments, proposed to be made to the Constitution of the United States, as agreed to by both Houses of the Legislature of this State, and that he was directed to move for leave to sit again; which report being agreed to by the Senate: Thereupon,

Ordered, That Mr. Duane, Mr. L'Hommedieu and Mr. Livingston, be a committee to devise and report a mode for the said ratification.

Ordered, That the committee have leave to sit again.

Then the Senate adjourned until ten of the clock to-morrow morning.

1. Printed: *Senate Journal*, 14.

Assembly Proceedings, Friday, 12 February 1790¹

Mr. Jones, from the committee appointed for that purpose, according to order, brought in a bill, entitled "An act ratifying certain articles in addition to, and amendment of the Constitution of the United States of America, proposed by the Congress," which was read the first time, and ordered a second reading.

1. Printed: *Assembly Journal*, 35.

Assembly Proceedings, Saturday, 13 February 1790¹

The bill, entitled "An act ratifying certain articles, in addition to and amendment of the Constitution of the United States of America, proposed by the Congress," was read a second time, and committed to a committee of the whole House.

1. Printed: *Assembly Journal*, 36. Also printed in the *New York Daily Gazette*, 17 February.

Assembly Proceedings, Saturday, 20 February 1790 (excerpts)¹

Mr. Gilbert, from the committee of the whole House, on the bill, entitled "An act ratifying certain articles, in addition to and amendment of the Constitution of the United States of America, proposed by the Congress," reported, that in proceeding in the bill, the enacting clause, was read, in the words following, viz.

"Therefore, Be it enacted by the people of the state of New-York, represented in Senate and Assembly, and it is hereby enacted by the

authority of the same, That the said articles, except the second, shall be, and hereby are ratified by the Legislature of this State.”

That the said enacting clause having been read, Mr. J. Smith, made a motion that the same should be rejected; that the Legislature would ratify the said amendments, except the second, by resolutions; and for that purpose, that a resolution should, after the recitals contained in the bill, be substituted instead of the same clause, in the words following, viz.

“Resolved by the Senate and Assembly of the state of New-York, and it is hereby resolved by the authority of the same, That the said articles, except the second, shall be, and hereby are ratified by the Legislature of this State.”

That the question having been put, on the motion of Mr. J. Smith, it passed in the negative, in the manner following, viz.

FOR THE NEGATIVE [49].

Mr. Speaker,	Mr. Horton,	Mr. Coe,
Mr. Watts,	Mr. Griffen,	Mr. Marvin,
Mr. King,	Mr. Barker,	Mr. Crane,
Mr. Will,	Mr. Crane, junior,	Mr. Bronck,
Mr. Randall,	Mr. Morgan,	Mr. Myers,
Mr. Post,	Mr. Rowan,	Mr. M'Master,
Mr. Childs,	Mr. Savage,	Mr. Lewis,
Mr. Scudder,	Mr. H. Van Rensselaer,	Mr. Veeder,
Mr. Clowes,	Mr. Younglove,	Mr. Livingston,
Mr. Cornwell,	Mr. Van Cortlandt,	Mr. Carpenter,
Mr. Jones,	Mr. J. Brown,	Mr. Hitchcock,
Mr. Carman,	Mr. Arndt,	Mr. Tappen,
Mr. Vandervoort,	Mr. Converse,	Mr. Van Veghten,
Mr. Winant,	Mr. Schoonmaker,	Mr. Haight,
Mr. Bancker,	Mr. Smith,	Mr. J. Livingston,
Mr. Rockwell,	Mr. Bruyn,	Mr. Sill.
Mr. Seaman,		

FOR THE AFFIRMATIVE [2].

Mr. J. Smith, Mr. Havens.

That the committee had gone through the bill without amendment, which he was directed to report to the House; and he read the report in his place, and delivered the bill in at the table, where the same was again read, and agreed to by the House.

Ordered, That the bill be engrossed.

1. Printed: *Assembly Journal*, 48. An excerpt from the *Assembly Journal* (including the roll call on John Smith's motion) was printed in the *New York Daily Gazette*, 22 February.

Assembly Proceedings, Monday, 22 February 1790 (excerpts)¹

The engrossed bill, entitled “An act ratifying certain articles in addition to, and amendment of the Constitution of the United States of America, proposed by the Congress,” was read the third time.

Resolved, That the bill do pass. . . .

Ordered, That Mr. Gordon and Mr. Will, deliver the two last mentioned bills to the Honorable the Senate, and request their concurrence to the same respectively.

1. Printed: *Assembly Journal*, 49. The third reading of the bill was reported in the *New York Daily Advertiser*, 23 February, and reprinted in the *New York Daily Gazette*, 24 February.

Senate Proceedings, Monday, 22 February 1790¹

A message from the Honorable the Assembly, by Mr. Gordon and Mr. Will, was received with the two following bills for concurrence, viz. the bill, entitled “An act to continue the acts for the appointment of an Auditor, and the settlement of the public accounts of this State,” and the bill, entitled “An act ratifying certain articles, in addition to and amendment of the Constitution of the United States of America, proposed by the Congress,” which were respectively read the first time, and ordered a second reading.

1. Printed: *Senate Journal*, 23.

Senate Proceedings, Tuesday, 23 February 1790¹

The bill, entitled “An act to continue the acts for the appointment of an Auditor, and the settlement of the public accounts of this State;” the bill, entitled “An act ratifying certain articles, in addition to and amendment of the Constitution of the United States of America, proposed by the Congress,” and the bill, entitled “An act for building a bridge across Haerlem river,” were respectively read a second time, and committed to a committee of the whole.

1. Printed: *Senate Journal*, 24.

Senate Proceedings, Wednesday, 24 February 1790 (excerpts)¹

Mr. Duane, from the committee of the whole, to whom was referred the bill entitled, “An act ratifying certain articles in addition to, and amendment of the Constitution of the United States of America, proposed by the Congress,” reported, that the committee had gone through the bill without amendment, and agreed to the same; which report he

read in his place, and delivered the bill in at the table, where it was again read, and agreed to by the Senate. Thereupon,

Resolved, That the bill do pass. . . .

Ordered, That Mr. Morris and Mr. Peter Schuyler deliver the said three bills to the Honorable the Assembly, and inform them that the Senate have passed the said bills respectively, without amendment.

1. Printed: *Senate Journal*, 24–25.

Assembly Proceedings, 24 February 1790¹

A message from the Honorable the Senate, delivered by Mr. Morris and Mr. Peter Schuyler, with the bills therein mentioned, was read, that the Senate have passed the bill, entitled, “An act ratifying certain articles, in addition to and amendment of the Constitution of the United States of America, proposed by the Congress;” the bill, entitled “An act to continue the acts for the appointment of an Auditor, and the settlement of the public accounts of this State;” and the bill, entitled “An act for the more equal assessment of estates in the county of Richmond,” respectively without amendment.

Ordered, That Mr. Tappen and Mr. Hitchcock deliver the three last mentioned bills to the Honorable the Council of Revision.

1. Printed: *Assembly Journal*, 53.

Council of Revision Minutes, 25 and 27 February 1790 (excerpts)¹

The Council then adjourned untill the 25 Instant at 10 o’clock A.M.

The Council met pursuant to adjournment.

Pres[en]t His Excellency Governor Clinton

The Honor[able] Mr. Chief Justice [Richard] Morris

The Honor[able] Mr. Justice [Robert] Yates. . . .

. . . The bill entitled An act ratifying certain Articles in addition to and amendment of the Constitution of the United States of America proposed by the Congress. . . .

Resolved that It does not appear improper to the Council that the said bills Should respectively become Laws of this State

Ordered that a copy of the preceeding resolution signed by his Excellency the Governor be delivered to the Honorable the Assembly by Mr. Justice Yates.

The Council then adjourned untill the 27 Instant at 10 o’clock A.M.

The Council met pursuant to adjournment.

Present His Excellency Governor Clinton

The Honor[able] Mr. Chief Justice Morris

The Honor[able] Mr. Justice Yates.

The bill entitled An Act ratifying certain articles in addition to and amendment of the Constitution of the united States of America proposed by the Congress. and the Bill entitled An Act for the more equal assessment of the Estates in the County of Richmond were read a second time, agreeably to Order and duly considered

Resolved that It does not appear improper to the Council that the said bills should respectively become laws of this State.

Ordered that a Copy of the preceeding resolution signed by his Excellency the Governor be delivered to the honorable the Assembly by Mr. Justice Yates.

1. MS, Council of Revision Minutes, New-York Historical Society. The Council's approval of the act ratifying the amendments was printed in the *New York Daily Gazette*, 1 and 3 March, and in the *Albany Gazette*, 18 March.

Assembly Proceedings, Saturday, 27 February 1790¹

A message from the Honorable the Council of Revision, delivered by the Honorable Mr. Justice Yates, was read, "That it does not appear improper to the Council, that the bill, entitled 'An act ratifying certain articles, in addition to, and amendment of the Constitution of the United States of America, proposed by the Congress,' and the bill, entitled 'An act for the more equal assessment of estates in the county of Richmond,' should respectively become laws of this state."

1. Printed: *Assembly Journal*, 58. The Council of Revision's favorable vote on the bill was reported in the *New York Daily Advertiser*, 1 March; *New York Daily Gazette*, 3 March; and *Albany Gazette*, 18 March.

Act Ratifying Eleven Amendments, 27 February 1790¹

CHAPTER XV.

An ACT ratifying certain Articles in Addition to, and Amendment of the Constitution of the United States of America, proposed by the Congress. Passed 27th February, 1790.

Whereas by the fifth article of the Constitution of the United States of America, it is provided that the Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to the said Constitution, which shall be valid to all intents and purposes, as part of the said Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress. And whereas in the session of the Congress of the United States of America, begun and held at the city of New-York on Wednes-

day the fourth of March one thousand seven hundred and eighty-nine, it was resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both houses concurring, That the following articles be proposed to the legislatures of the several states, as amendments to the Constitution of the United States; all or any of which articles, when ratified by three fourths of the said legislatures, to be valid to all intents and purposes, as part of the said Constitution, viz.

ARTICLES in addition to, and amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the legislatures of the several states, pursuant to the fifth article of the original Constitution.

[The twelve amendments to the Constitution proposed by Congress are printed here.]

And whereas the Legislature of this state have considered the said articles, and do agree to the same, except the second article. Therefore,

Be it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the said articles, except the second, shall be, and hereby are ratified by the Legislature of this State.

1. Printed: *Laws of the State of New-York* (New York, 1790) (Evans 22720), 10–11.

Senate Proceedings, Monday, 1 March 1790¹

A message from the Honorable the Council of Revision, transmitted by the Honorable the Assembly, was received and read, That it does not appear improper to the Council, that the following bills, to wit, the bill, entitled “An act ratifying certain articles in addition to, and amendment of the Constitution of the United States of America, proposed by the Congress;” and the bill, entitled “An act for the more equal assessment of estates in the county of Richmond,” should respectively become laws of this State.

1. Printed: *Senate Journal*, 27.

Assembly Proceedings, Tuesday, 16 March 1790 (excerpts)¹

Resolved, (if the Honorable the Senate concur therein) That the Governor be, and he is hereby requested to cause an exemplification of the act, entitled “An act ratifying certain articles in addition to and amendment of the Constitution of the United States of America, proposed by the Congress,” . . . under the great seal of this State to be made, and to transmit the same to the President of the United States.

Ordered, That Mr. Talman and Mr. Carpenter deliver a copy of the preceding resolution to the Honorable the Senate.

1. Printed: *Assembly Journal*, 80.

Senate Proceedings, Friday, 19 March 1790 (excerpts)¹

A message from the Honorable the Assembly, by Mr. Talman and Mr. Carpenter, was received, with the following resolution for concurrence, which was read, viz.

Resolved, (if the Honorable the Senate concur herein) That the Governor be, and he is hereby requested to cause an exemplification of the act, entitled "An act ratifying certain articles in addition to and amendment of the Constitution of the United States of America, proposed by the Congress" . . . under the great seal of this State, to be made, and to transmit the same to the President of the United States. Thereupon,

Resolved, That the Senate do concur with the Honorable the Assembly in their preceding resolution.

Ordered, That Mr. Clinton and Mr. Peter Schuyler deliver a copy of the preceding concurrent resolution to the Honorable the Assembly.

1. Printed: *Senate Journal*, 39–40.

Assembly Proceedings, Friday, 19 March 1790¹

A copy of a resolution of the Honorable the Senate was read, concurring with this House in their resolution of the sixteenth instant, for the exemplification of certain laws of this State, and the transmission thereof to the President of the United States.

Ordered, That Mr. Tappen and Mr. J. Smith, deliver a copy of the said resolution of this House, and of the resolution of concurrence of the Honorable the Senate, to his Excellency the Governor.

1. Printed: *Assembly Journal*, 86.

Exemplification of New York's Ratification of Amendments to the Constitution, 27 March 1790¹

[Here appears New York's act ratifying eleven of Congress' proposed amendments. See BoR, I, 538–39.]

IN TESTIMONY whereof WE have caused these our Letters to be made patent and the Great Seal of our said State to be hereunto affixed: WITNESS our Trusty and well beloved GEORGE CLINTON Esquire, Governor of our said State, General and Commander in Chief of all the Militia and Admiral of the Navy of the same, at our City of New York,

the twenty seventh day of March in the Year one thousand seven hundred and ninety, and in the fourteenth Year of our Independence.

Geo. Clinton

Passed the Secretary's Office the 27th March 1790.

Lewis A. Scott, Sec'y.

1. MS, RG 11, Certificates of Ratification, DNA.

**Governor George Clinton to President George Washington
New York, 2 April 1790¹**

I have the Honor of transmitting to your Excellency herewith inclosed, Exemplifications of three Acts of the Legislature of this State, passed at their present Session, and to be with the highest Respect

1. RC, RG 11, Certificates of Ratification, DNA.

**Newspaper Reports of New York's Ratification of Amendments
to the Constitution, 10 February–7 April 1790**

New Hampshire Gazette, 10 February 1790¹

The amendments, proposed to be added to the Constitution of the United States have been adopted by the Assembly of New-York, except the 2d article.

1. Reprinted: *Massachusetts Spy*, 11 February; Springfield, Mass., *Hampshire Chronicle*, 17 February. A similar report appeared in the *Charleston City Gazette*, 11 March.

New York Daily Gazette, 16 February 1790¹

A message from the President by Mr. Lear, was received [by the House of Representatives], communicating a vote of the Legislature of New-York, acceding to the amendments proposed by Congress to the Constitution of the United States.

1. Also printed in the *New York Packet*, 16 February; and reprinted in the *New York Journal*, 18 February; *Pennsylvania Mercury*, 20 February; *Albany Register*, 22 February; and the *Pennsylvania Herald*, 10 March.

New York Gazette of the United States, 7 April 1790 (excerpts)¹

A message from the President of the United States, with exemplifications of three acts passed by the State of New-York, was received [by the House of Representatives], viz. . . . an act ratifying the amendments to the Constitution.

1. Reprinted nineteen times by 2 June: N.H. (2), Mass. (5), Conn. (4), N.Y. (2), Pa. (2), Va. (2), S.C. (2). A similar report was printed in the *New York Journal*, 8 April, and reprinted in the Danbury, Conn., *Farmer's Journal*, 15 April.

North Carolina 22 December 1789

On 18 November 1789, the delegates to the second North Carolina ratifying Convention began debating the Constitution while sitting as a committee of the whole. Among the committee's papers was a copy of Congress' twelve proposed amendments to the Constitution (perhaps the engrossed manuscript broadside). On the 18th, the Convention agreed that its secretary should contract with the local printer to print 300 copies of the amendments. On 20 November, Antifederalist James Gallaway of Rockingham County referenced Congress' proposed amendments saying that they only partially satisfied the first North Carolina Convention's proposal for a bill of rights and structural alterations to the Constitution, but that further amendments were needed before North Carolina should ratify. Gallaway proposed five additional amendments that needed to be considered in a second constitutional convention before North Carolina should ratify the Constitution. The delegates overwhelmingly rejected this latest call for previous amendments to the Constitution.

On 23 November, the last day of the state Convention, the House of Commons (also sitting in Fayetteville) read and approved a bill submitted by John Hamilton of Edenton for the ratification of Congress' proposed twelve amendments to the Constitution. The House sent the bill to the Senate, which, on 24 November read and approved it and so notified the House. On 26 November, before the second reading of the bill in the House, Hamilton asked permission to amend it, which the House approved. The House read and approved the amended bill a second time on 30 November, and sent the bill to the Senate. On 1 December, the Senate read and approved the bill for a second time and so notified the House. On 5 December the House read and approved the bill for a third time and ordered it sent to the Senate. Three days later the Senate read and approved the amended bill for a third time and ordered it engrossed. The engrossed bill was signed on 22 December 1789. On 10 February 1790, North Carolina Secretary of State James Glasgow certified the authenticity of a copy of the act, which Governor Alexander Martin sent to President George Washington on 14 February 1790. Three months later, on 25 May, Governor Martin again sent copies of the act to President Washington and to North Carolina's representatives in Congress.

House of Commons Proceedings, Monday, 23 November 1789¹

Mr. Hamilton of Edenton, moved for leave & presented a Bill to ratify the amendments to the Constitution of the United States; which was read for the first time, passed and sent to the House [i.e., Senate].

1. Printed: *Journal of the House of Commons* (Edenton, 1790) (Evans 22739), 251. Hereafter cited as *House Journal*. Also printed in the *State Gazette of North Carolina*, 17 December.

Senate Proceedings, Tuesday, 24 November 1789 (excerpts)¹

Received also [from the House of Commons] a bill to ratify the amendments to the Constitution of the United States . . .

Ordered, that these Bills be read, which being read, were passed the first time in this House and returned.

1. Printed: *Journal of the Senate* (Edenton, 1790) (Evans 22740), 616. Hereafter cited as *Senate Journal*.

**House of Commons Proceedings, Tuesday, 24 November 1789
(excerpts)¹**

Received from the Senate the following Bill. Endorsed read the first time and passed, to wit: . . . A Bill to ratify the amendments to the Constitution of the United States.

1. Printed: *House Journal*, 260.

**House of Commons Proceedings, Wednesday, 25 November 1789
(excerpts)¹**

Ordered that the following Bills be read for the second time tomorrow, to-wit: . . . A Bill to ratify the amendments to the Constitution of the United States.

1. Printed: *House Journal*, 266.

House of Commons Proceedings, Thursday, 26 November 1789¹

Mr. Hamilton moved for leave to withdraw for amendment “the Bill to ratify the amendments to the Constitution of the United States.” Ordered that he have leave accordingly.

1. Printed: *House Journal*, 271.

House of Commons Proceedings, Monday, 30 November 1789¹

Ordered that the following Message be sent to the Senate:

Mr. Speaker & Gentlemen:

We have appointed Mr. Jones and Mr. Hamilton of Edenton, to assist in examining the Engrossed Bills.

The Bill to ratify the amendments to the Constitution of the United States, was read the second time, amended, passed and sent to the Senate.

1. Printed: *House Journal*, 287.

**House of Commons Proceedings, Tuesday, 1 December 1789
(excerpts)¹**

Received also, a Bill to ratify the amendments to the Constitution of the United States . . .

Endorsed: read the second time and passed

1. Printed: *House Journal*, 293.

House of Commons Proceedings, Saturday, 5 December 1789¹

The Bill to ratify the amendments to the Constitution of the United States, was read the third time, amended, passed and sent to the Senate.

1. Printed: *House Journal*, 318.

Senate Proceedings, Tuesday, 8 December 1789¹

Received also the bill to ratify the amendments to the constitution of the United States, endorsed "Read the third time, amended and passed."

Ordered, That this bill be read; which being read, was passed the third time and ordered to be engrossed.

1. Printed: *Senate Journal*, 664.

**Act to Ratify the Amendments to the Constitution
of the United States, 22 December 1789¹**

[The act begins with Congress' twelve proposed amendments and its resolution that prefaced them.]

Be it therefore enacted by the General Assembly of the state of North Carolina and it is hereby enacted by the authority of the same, that the said amendments agreeable to the fifth article of the original Constitution be held and ratified on the part of this State as articles in addition to and amendments of the Constitution of the United States of America.

Chas Johnson S.S.
S. Cabarrus S.H.C.

Read three times and ratified In General Assembly this 22nd day of December AD. 1789.

State of North Carolina

I James Glasgow Secretary of the said State do hereby Certify the foregoing to be a true Copy of the Original Act of the Assembly filed in the Secretary's office

In Testimony whereof I have hereto set my Hand—this tenth day of February 1790

1. MS, RG 11, Certificates of Ratification, DNA. A manuscript copy of the act is also in the North Carolina State Papers, 1788–1789, Duke University Library.

**Governor Alexander Martin to President George Washington
Danbury, N.C., 14 February 1790¹**

His Excellency Alexander Martin Esquire Governor, Captain General and Commander in Chief in and over the said State

To all to whom these presents shall come

It is certified That the honorable James Glasgow Esquire who hath attested the annexed Copy of an Act of the General Assembly of this State was at the time thereof and now is Secretary of the said State and that full faith and Credit are due to his Official Acts

Given under my Hand and the great Seal of the State at Danbury the fourteenth day of Feb. Anno Dom. 1790 and in the XIV Year of our Independance

1. RC, RG 11, Certificates of Ratification, DNA. The letter was endorsed "By his Exelly's Consd. Tho: Rogers PSec."

New York Gazette of the United States, 12 May 1790¹

A message was received from the President of the United States [dated 11 June] with a copy of the ratification of the amendments to the constitution by the State of North-Carolina.

1. Reprinted in thirteen newspapers by 9 August: N.H. (1), Mass. (5), Conn. (3), Pa. (1), Md. (1), Va. (2). The Baltimore *Maryland Gazette*, 8 January 1790, also announced: "We learn from North-Carolina, that the Legislature of that State has agreed to the amendments proposed by Congress to the Constitution." This statement was reprinted in six newspapers by 25 March: R.I. (2), Pa. (3), Va. (1).

**Governor Alexander Martin to President George Washington
Rockingham, N.C., 25 May 1790¹**

I do myself the honour to transmit you herewith inclosed an Act of the General Assembly of this State passed at their last Session entituled "An Act to ratify the amendments to the Constitution of the United States."

Your Communication of the 20th of February last of the Act of Congress entituled "An Act for giving effect to the Acts therein mentioned in respect to the State of North Carolina and other purposes." I have been duely honoured with, and have announced the same to the Citizens of this State—

I have the honour to be with very great respect

1. RC, RG 11, Certificates of Ratification, DNA. The letter is docketed (probably by a clerk in the Department of State): "Recd. from the President June 4th 1790./No. 3./North Carolina." The letter is also in the Governors' Letterbooks and Papers, North Carolina State Archives.

Governor Alexander Martin to North Carolina's**U.S. Representatives, Rockingham, N.C., 25 May 1790 (excerpt)¹**

I was favoured with your Letter of the 11th Ulto. a few days ago with sundry Inclosures particularly an Act of Congress for accepting the "Act of Cession of the Western Lands" by you made to the United States—which I shall do myself the Honour to lay before the legislature at their next meeting.

I was informed by some of the Clerks at the adjournment of the Assembly, that the ratification of the Articles proposed by Congress as amendments to the Constitution of the United States by the Legislature of this State had early in the Session been sent forward to Congress before my coming into the administration, and gave myself no further trouble about it—but thinking that a duplicate of the Cession Act should go forward lest the original might miscarry I sent to Colo. Glasgow for the Exemplification, and he Accordingly transmitted me the same with an authenticated Copy of the ratification act you mentioned which I have done myself the honour to inclose to the President of the United States. . . .

I have the honour to be Gentlemen with very great respect

1. FC, Governors' Letterbooks and Papers, North Carolina State Archives.

Pennsylvania

10 March 1790

On 12 October 1789, the Pennsylvania Supreme Executive Council received President George Washington's letter of 2 October transmitting Congress' proposed amendments to the Constitution. After the state Assembly achieved a quorum on 3 November, the Council sent it the amendments. On 10 November the Assembly ordered 100 copies of the amendments printed for the use of its members. After considering the amendments in a committee of the whole on 27 and 30 November, the Assembly agreed to delay its further consideration of the amendments until its next session.

On 24 February 1790, the Assembly reconsidered the amendments and agreed that a bill should be brought in approving all but the first two of Congress' amendments. On 26 February the Assembly rejected a consideration of the first amendment and resolved to appoint a committee to bring in a bill approving the last ten amendments (Nos. 3–12). On 2 March the Assembly read the bill for the first time. Three days later the Assembly read the bill for the second and third times and ordered it published for consideration. On 9 March the Assembly read the bill for a third time. On 10 March the engrossed act was brought in, compared, and signed by Richard Peters, the Assembly Speaker. The next day Speaker Peters sent a copy of the act to President George Washington. On 16 March Washington's secretary (Tobias Lear) sent the exemplification to the office of the Secretary of State.

On 24 August 1791 a motion was made in Pennsylvania's new House of Representatives to consider Congress' first amendment. On the 29th, the House considered the motion and ordered consideration in a committee of the whole. On 1 September the committee of the whole considered the first amendment and the House agreed. The next day a bill to that effect was brought in and read for the first time. A week later the bill was read a second time. The next day, 9 September, the bill was read a third time and was agreed to by the House, which ordered the bill to be sent to the Senate. After a third reading on 16 September, the Senate agreed to it. On 20 September, the House compared and signed the engrossed act, which was signed by the House and Senate speakers. On 21 September a joint legislative committee sent the signed engrossed act to Governor Thomas Mifflin, who signed the act and sent a copy to President Washington. On 27 October 1791, Tobias Lear, Washington's secretary, sent the copy of the approval of Congress' first amendment to Secretary of State Thomas Jefferson.

Supreme Executive Council Proceedings, Monday, 12 October 1789 (excerpts)¹

Letters from His Excellency the President of the second and third instant inclosing the following Acts of Congress Vizt. . . .

A Copy of the Amendments proposed to be added to the Constitution of the United States.²

1. MS, Rough Copy of the Minutes, RG 27, Pennsylvania State Archives. (P-Ar.)

2. The Philadelphia *Federal Gazette*, 7 November, reported that "A letter was received from the President of the United States enclosing the proposed amendments of the new constitution—These were referred to the house, to be taken into consideration when they should convene for the purpose of instructing their deputies on the subject of calling a convention" to draft a new state constitution.

Supreme Executive Council Proceedings, Tuesday, 3 November 1789¹

Mr. Lutz, Mr. Neville and Mr. Lilly a Committee from the General Assembly attending were introduced and informed Council that the House was now met and ready to receive any business which Council might have to lay before them—

The Committee were informed that a Message was preparing and would be laid before the House this day together with several public papers which have been received since the last adjournment of the Assembly.

A draft of a Message from Council to the General Assembly was laid before Council—read and approved as follow—Vizt.

1. MS, RG 27, P-Ar.

Assembly Proceedings, Tuesday, 3 November 1789 (excerpts)¹

A message from his Excellency the President and Supreme Executive Council was presented to the chair, and read, as follows, *viz.* . . .

Gentlemen,

We herewith transmit . . .

A copy of the amendments proposed to be added to the constitution of the United States. . . .

And the several papers accompanying the same were also read; and,

On motion of Mr. *Kennedy*, seconded by Mr. *Carson*,

The said message and papers therewith transmitted were, by special order, read the second time: Whereupon

Ordered, That the same be referred to Mr. *Wynkoop*, Mr. *Lilley* and Mr. *Kennedy*, to arrange the subject matters, and report thereon.

Adjourned until ten o'clock to-morrow, A.M.

1. *Minutes of the First Session of the Fourteenth General Assembly* (Philadelphia, 1789) (Evans 45556), 9–11. Hereafter cited as *Assembly Journal*. The President and Council's letter was printed in the Philadelphia *Federal Gazette* and the *Pennsylvania Packet* on 4 November; and reprinted in the Philadelphia *Independent Gazetteer* and the *Pennsylvania Mercury* on 5 November; *New York Packet*, 10 November; and the *Pennsylvania Gazette*, 11 November.

Assembly Proceedings, Thursday, 5 November 1789¹

The committee appointed *November* 3d, to arrange the subject matters of the message of Council, made report, which was read; and on motion, and by special order, the same was read the second time, as follows, *viz.*

Your committee, appointed to arrange the matters contained in the message of the Supreme Executive Council beg leave to offer the following resolutions:

Resolved, That the amendments proposed to be added to the constitution of the United States be referred to a committee of the whole.

1. Printed: *Assembly Journal*, 13. These three paragraphs were printed in the *Pennsylvania Packet*, 9 November; the Philadelphia *Independent Gazetteer*, 10 November; and the *Carlisle Gazette*, 18 November.

Assembly Proceedings, Tuesday, 10 November 1789¹

On motion of Mr. *Carson*, seconded by Mr. *Kennedy*,

Resolved, That one hundred copies of the amendments proposed by Congress to the constitution of the United States be printed, for the use of the members of this House.

1. Printed: *Assembly Journal*, 24; and in the *Pennsylvania Packet*, 13 November.

Assembly Proceedings, Tuesday, 24 November 1789¹

The House resumed the consideration of the report of the committee appointed on the message of the President and Supreme Executive Council, to arrange the subject matters contained in the said message, postponed *November 5th*: Whereupon

On motion of Mr. *Boys*, seconded by Mr. *Ashmead*,

Resolved, That the amendments proposed to be added to the constitution of the United States be referred to a committee of the whole.

Which was carried in the affirmative.

It was then, on motion of Mr. *Rawle*, seconded by Mr. *Gurney*,

Resolved, That this House will on *Friday* next resolve itself into a committee of the whole, for the purposes contained in the foregoing resolution, and that it be the order for the day.

1. Printed: *Assembly Journal*, 54; and in the *Pennsylvania Packet*, 8 December.

Assembly Proceedings, Friday, 27 November 1789¹

Agreeably to the order of the day, the House resolved itself into a committee of the whole, in order to take into consideration the amendments proposed by Congress to the constitution of the United States.

Mr. Speaker quitted the chair, and Mr. *Wynkoop* was placed therein.

After some time spent in discussing the subject.

The Chairman quitted the chair, and Mr. Speaker resumed it.

The Chairman then reported that they had made some progress in the business, but not having completed the same, requested leave to sit again on *Monday* next, in the afternoon.

Leave was accordingly granted.

Adjourned until ten o'clock to-morrow, A.M.

1. Printed: *Assembly Journal*, 58; and in the *Pennsylvania Packet*, 11 December; and *York Pennsylvania Herald*, 25 December. The *Philadelphia Federal Gazette*, 27 November, reported that: "The house resolved itself into a committee of the whole to consider the amendments proposed, by Congress, to the Federal Constitution. The committee agreed to all the amendments except the two first.—Reported progress, and begged leave to sit again on Monday next, when the two first articles are to be re-considered" (also printed in the *Pennsylvania Packet* on 27 November, and reprinted in the *New York Daily Advertiser*, 3 December; *New York Packet*, 5 December; *Albany Gazette*, 10 December; and *Lansingburgh, N.Y., Federal Herald*, 14 December.

Assembly Proceedings, Monday, 30 November 1789¹

Agreeably to the order of the day, the House resolved itself into a committee of the whole, to take into consideration the amendments proposed by Congress to the constitution of the United States.

Mr. Speaker quitted the chair, and the Chairman was placed therein. After some time spent in discussing the subject, the Chairman quitted the chair, and Mr. Speaker resumed it.

The Chairman then reported, that the committee had made further progress in the business, but not having compleated the same, requested leave to sit again.

Leave was accordingly granted.

Adjourned until ten o'clock to-morrow, A.M.

1. Printed: *Assembly Journal*, 85; and in the *Pennsylvania Packet*, 15 December; and the York *Pennsylvania Herald*, 25 December.

Newspaper Account of Assembly Proceedings, 30 November 1789¹

The Committee of the whole went into the further consideration of the first and second amendment proposed to be added to the Constitution of the United States—A variety of opinions prevailing as to both these articles; it was deemed most proper, that the consideration of them should be postponed, that the members might have further time to reflect on them. The Committee therefore rose, reported progress, asked, and obtained leave to sit again. As the session is nearly drawing to a close it is conjectured, that nothing will finally be determined in this business, until the House meet again which will probably be sometime in February.

1. Printed in the Philadelphia *Federal Gazette*, 1 December. Reprinted ten times by 31 December: Mass. (1), R.I. (1), N.Y. (6), Va. (1), S.C. (1).

Assembly Proceedings, Wednesday, 24 February 1790¹

Agreeably to leave given, *November* 30th last, the House resolved itself into a committee of the whole, in order to take into consideration the amendments proposed by Congress to the constitution of the United States.

Mr. Speaker quitted the chair, and the Chairman was placed therein.

After some time spent in discussing the subject,

The Chairman quitted the chair, and Mr. Speaker resumed it.

The Chairman then made report, which was read, as follows, *viz.*

The committee of the whole House beg leave to report—

That they have deliberately considered the several articles of amendment proposed by the Congress of the United States, and submit the following resolutions, *viz.*

Resolved, That this House do ratify the following articles, proposed by the Congress of the United States as amendments to the constitution of the United States, *viz.*

[Here follows the text of Congress' proposed amendments Nos. 3–12.]
Resolved, That a committee be appointed to bring in a bill, for the purposes contained in the above resolution.

Ordered to lie on the table.

Adjourned until ten o'clock to-morrow, A.M.

1. Minutes of the Second Session of the Fourteenth General Assembly (Philadelphia, 1790) (Evans 45968), 148–49. Hereafter cited as *Assembly Journal, 1790*.

Assembly Proceedings, Friday, 26 February 1790¹

On motion of Mr. *Rawle*, seconded by Mr. *Kennedy*,

Ordered, That *Monday* next be assigned for the second reading of the report of the committee of the whole on the subject of the amendments proposed by Congress to the constitution of the United States, and that it be the order for that day.

1. Printed: *Assembly Journal, 1790*, 154.

Assembly Proceedings, Monday, 1 March 1790¹

Agreeably to the order of the day, the report of the committee of the whole on the several articles proposed by Congress as amendments to the constitution of the United States, read *February* 24th, was read the second time: Whereupon

A motion was made by Mr. *Maclay*, seconded by Mr. *Harris*,

To postpone the said report, in order to take into consideration the first Article of the said proposed amendments, *viz.*

[Here follows the text of Congress' first proposed amendment on the apportionment of the U.S. House of Representatives.]

On the question,—“*Will the House agree to the postponement, for the aforesaid purpose?*”—the Yeas and Nays being called by Mr. *Kennedy* and Mr. *Johnston*, were as follow, *viz.*

YEAS.

1 Francis Gurney,	11 John Moore,
2 Thomas Clingan,	12 Samuel Maclay,
3 Joseph Reed,	13 John White,
4 John Stewart,	14 John Baird,
5 Thomas Kennedy,	15 James Barr,
6 David Mitchell,	16 James Allison,
7 Jonathan Hoge,	17 Alexander Wright,
8 John Ludwig,	18 James Marshall,
9 Nicholas Lutz,	19 John Gilchreest,
10 Anthony Lerch,	20 James Finley,

- | | |
|----------------------|---------------------|
| 21 James Johnston, | 25 John Carson, |
| 22 John Rhea, | 26 James M'Creight, |
| 23 Benjamin Markley, | 27 John Harris. |
| 24 Jacob Miley, | |

NAYS.

- | | |
|--------------------------|-----------------------|
| 1 Lawrence Sickle, | 17 James Cunningham, |
| 2 Jacob Hiltzheimer, | 18 Jacob Erb, |
| 3 William Rawle, | 19 John Miller, |
| 4 Samuel Ashmead, | 20 Jacob Schmyser, |
| 5 Thomas Paul, | 21 Thomas Lilley, |
| 6 Thomas Britton, | 22 William Godfrey, |
| 7 Elias Boys, | 23 Stephen Balliot, |
| 8 Gerardus Wynkoop, | 24 Conrad Ibrie, jun. |
| 9 Valentine Upp, | 25 Herman Husband, |
| 10 John Chapman, | 26 Thomas Ryerson, |
| 11 James Bryan, | 27 Jacob Reiff, |
| 12 Richard Thomas, | 28 Jonathan Roberts, |
| 13 Richard Downing, jun. | 29 James Vaux, |
| 14 James Clemson, | 30 Obadiah Gore, |
| 15 John Hopkins, | 31 John Nevil, |
| 16 Henry Dering, | 32 Richard Riley. |

So it was carried in the negative.

And the said report recurring, the House adopted the following resolution, contained in the same, *viz.*

Resolved, That this House do ratify the following articles, proposed by the Congress of the United States as amendments to the constitution of the United States, *viz.*

[Here follows the text of Congress' proposed amendments Nos. 3–12.]

Resolved, That a committee be appointed to bring in a bill, for the purposes contained in the above resolution.

Ordered, That Mr. *Rawle*, Mr. *Wynkoop* and Mr. *Kennedy* be a committee, to bring in a bill conformably to said resolutions.

1. Printed: *Assembly Journal 1790*, 156–58.

Assembly Proceedings, Tuesday, 2 March 1790¹

The committee appointed for the purpose reported a bill, entitled “*An Act declaring the assent of this State to certain amendments to the constitution of the United States*,” which was read the first time, and

Ordered to lie on the table.

1. Printed: *Assembly Journal, 1790*, 161, and reported in the *Philadelphia Federal Gazette*, 3 March.

Assembly Proceedings, Friday, 5 March 1790¹

The bill, entitled “*An Act declaring the assent of this State to certain amendments to the constitution of the United States,*” was read the second time, and considered by paragraphs.

Ordered, That it be transcribed for a third reading, and forthwith published for consideration.

1. Printed: *Assembly Journal, 1790*, 169.

Assembly Proceedings, Tuesday, 9 March 1789¹

The bill, entitled “*An Act declaring the assent of this State to certain amendments to the constitution of the United States,*” was read the third time, and considered by paragraphs.

Ordered, That it be engrossed, for the purpose of being enacted into a law.

1. Printed: *Assembly Journal, 1790*, 174.

Assembly Proceedings, Wednesday, 10 March 1790¹

The bill, entitled “*An Act declaring the assent of this State to certain amendments to the constitution of the United States,*” having been brought in engrossed, was compared at the table, enacted into a law, and the Speaker directed to sign the same: Whereupon,

On motion of Mr. *Rawle*, seconded by Mr. *Boys*,

Resolved, That an exemplification of the act, entitled “*An Act declaring the assent of this state to certain amendments to the constitution of the United States,*” under the seal of this state, and signed by the Speaker of this House, be transmitted to the Congress of the United States.

Adjourned until ten o'clock to-morrow, A.M.

1. Printed: *Assembly Journal, 1790*, 177.

Act Ratifying Amendments to the Constitution, 10 March 1790¹

Sect. I. Whereas in pursuance of the fifth article of the constitution of the United States, certain articles of amendment to the said constitution have been proposed by the Congress of the United States, for the consideration of the Legislatures of the several States: *And whereas* this House, being the Legislature of the State of Pennsylvania, having maturely deliberated thereupon, have resolved to adopt and ratify the ar-

titles hereafter enumerated, as part of the Constitution of the United States.

Sect. II. Be it therefore enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That the following amendments to the constitution of the United States proposed by the Congress thereof, viz.

[Here follows the text of Congress' proposed amendments Nos. 3–12.]

Be, and they are hereby ratified on behalf of this State, to become, when ratified by the Legislatures of three-fourths of the several States, part of the constitution of the United States.

Signed by Order of the House,

RICHARD PETERS, SPEAKER.

Enacted into a law at Philadelphia, on Wednesday the tenth day of March, in the Year of our Lord one thousand seven hundred and ninety.

PETER ZACHARY LLOYD, Clerk of the General Assembly.

1. Printed: *Laws of the Fourteenth General Assembly of the Commonwealth of Pennsylvania . . . Second Sitting* (Philadelphia, 1790) (Evans 22763), 251–53.

Speaker Richard Peters: Certification of Act Ratifying Amendments 11 March 1790¹

In General Assembly

State of Pennsylvania, to wit.

In pursuance of a Resolution of the General Assembly of the State of Pennsylvania being the Legislature thereof, I do hereby Certify that the paper hereunto annexed contains an exact and true Exemplification of the Act whereof it purports to be a Copy, by virtue whereof the several Amendments therein mentioned, proposed to the Constitution of the United States were on the part of the Commonwealth of Pennsylvania agreed to, ratified and confirmed.

Given under my Hand and the Seal of the State this eleventh day of March in the year of our Lord one thousand seven hundred and ninety.

1. MS, RG 11, Certificates of Ratification, DNA. Endorsed: "Favd. by Thos. Ryerson Esqr."

Speaker Richard Peters to President George Washington Philadelphia, 11 March 1790¹

I have the Honour to transmit an exemplified Copy of the Act declaring the Assent of this State to certain Amendments to the Consti-

tution of the United States that you may be pleased to lay it before Congress—

With the greatest Respect

1. MS, RG 11, Certificates of Ratification, DNA.

Tobias Lear to Roger Alden, New York, 16 March 1790¹

I am directed by the President of the United States to transmit to you, to be lodged in the Office of the Secy of State, An Act & the form of Ratification, of certain Articles of Amendment to the Constitution of the United States, by the Legislature of the State of Pennsylvania— together with a letter from the Honble Richard Peters Esquire Speaker of the House of Assembly of Pennsylvania to the President of the United States.—

I am Sir, with very great esteem

1. MS, RG 11, Certificates of Ratification, DNA.

Newspaper Reports of Pennsylvania's Ratification of Congress' Amendments, 17–25 March 1790

New York Gazette of the United States, 17 March 1790¹

A message was received [by the U.S. House of Representatives] from the President of the United States, with the ratification of the amendments to the constitution by the State of Pennsylvania.

New York Gazette of the United States, 20 March 1790²

The ratification of the State of Pennsylvania of the 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 articles of amendments proposed by Congress to the Constitution was read [in the U.S. House of Representatives].

New York Journal, 25 March 1790

The General Assembly of Pennsylvania have ratified all the amendments proposed by Congress to the New Constitution, except the 1st and 2d.

1. Reprinted twenty-two times by 14 April: N.H. (1), Mass. (5), R.I. (1), Conn. (3), N.Y. (4), Pa. (6), Md. (1), Va. (1), and in the May 1790 issue of the *New York Magazine*.

2. Reprinted seventeen times by 20 April: N.H. (1), Mass. (4), Conn. (6), Pa. (3), Md. (2), Va. (1).

Assembly Proceedings, Tuesday, 6 April 1790 (excerpts)¹

The committee appointed to affix the seal to the laws reported, that they had affixed the seal to the following laws, *viz.* . . .

XIII. An ACT declaring the assent of this State to certain amendments to the constitution of the United States.

1. Printed: *Assembly Journal 1790*, 265.

House of Representatives Proceedings, Wednesday, 24 August 1791¹

A motion was made by Mr. *Gallatin*, seconded by Mr. *M'Lene*, in the following words, *viz.*

Resolved, That a committee be appointed to bring in a bill, ratifying, on behalf of the commonwealth, the first amendment to the constitution of the United States, proposed by the Congress of the United States during their first session.

Ordered to lie on the table.

1. Printed: *Journal of the Second Session of the House of Representatives of the Commonwealth of Pennsylvania* (Philadelphia, 1791) (Evans 23676), 436. Hereafter cited as *House Journal*.

House of Representatives Proceedings, Monday, 29 August 1791¹

The motion made by Mr. *Gallatin*, seconded by Mr. *M'Lene*, August 24th instant, respecting the first amendment to the constitution of the United States, proposed by the Congress of the United States, was read the second time: Whereupon,

On motion of Mr. *Wells*, seconded by Mr. *Wynkoop*,

Ordered, That the further consideration thereof be postponed until to-morrow, and that this House will then resolve itself into a committee of the whole, for the purpose of taking the same into consideration.

1. Printed: *House Journal*, 463.

House of Representatives Proceedings, Tuesday, 30 August 1791¹

On motion of Mr. *Evans*, seconded by Mr. *Vaux*,

Ordered, That the order of the day, for taking into consideration, in a committee of the whole House, the first amendment to the constitution of the United States, proposed by the Congress of the United States, be postponed until *Thursday* next.

1. Printed: *House Journal*, 464.

House of Representatives Proceedings, Thursday, 1 September 1791¹

Agreeably to the order of the day, the House resolved itself into a committee of the whole, in order to take into consideration the motion of Mr. *Gallatin*, seconded by Mr. *M'Lene*, postponed August 30th last.

Mr. Speaker quitted the chair, and Mr. *M'Clenachan* was placed therein.

After some time spent in the business,
The Chairman left the chair, and the Speaker resumed it.

The Chairman then reported, that the committee of the whole had agreed to the original resolution, without any amendments.

And having presented the same to the chair, it was read; and on motion, and by special order, the same was read the second time, and adopted, as follows, *viz.*

Resolved, That a committee be appointed to bring in a bill, ratifying, on the behalf of the commonwealth, the first amendment to the constitution of the United States, proposed by the Congress of the United States during their first session.

Ordered, That Mr. *Clymer*, Mr. *W. Findley* and Mr. *Gallatin* be a committee. to bring in a bill conformably to the foregoing resolution.

Adjourned until nine o'clock to-morrow, A.M.

1. Printed: *House Journal*, 470.

House of Representatives Proceedings, Friday, 2 September 1791¹

The committee appointed for the purpose reported a bill, entitled, “*An Act, ratifying, on behalf of the state of Pennsylvania, the first amendment proposed by Congress to the constitution of the United States,*” which was read the first time, and

Ordered to lie on the table.

Ordered, That *Thursday* next be assigned for the second reading of the said bill, and that it be the order for that day.

1. Printed: *House Journal*, 471–72.

House of Representatives Proceedings, Thursday, 8 September 1791¹

Agreeably to the order of the day, the bill, entitled “*An Act, ratifying, on behalf of the state of Pennsylvania, the first amendment proposed by Congress to the constitution of the United States,*” was read the second time.

On the question,—“*Will the House resolve itself into a committee of the whole, for the purpose of considering the same by paragraphs.*”

It was, on motion,

Ordered, That the House will, in the present instance, dispense with the last sentence of the nineteenth rule for the government of this House.²

Whereupon

The said bill was considered by paragraphs.

Ordered, That it be transcribed for a third reading.

1. Printed: *House Journal*, 490.

2. On 31 December 1790 the first House of Representatives under the constitution of 1790 adopted "RULES *and* REGULATIONS" to govern the House. The nineteenth rule was "Every bill shall receive three several readings in the House, previous to its passage; but no bill shall be read twice in the same day. All bills of a public nature shall, after a first reading, be printed in handbills, for the use of the members. All bills of a public nature shall be made the order of a day, and debated in a committee of the whole House previous to a third reading, unless the House shall direct otherwise" (*Journal of the First Session of the House of Representatives of the Commonwealth of Pennsylvania* [Philadelphia, 1790] [Evans 23675], 57–58).

House of Representatives Proceedings, Friday, 9 September 1791¹

The bill, entitled "*An Act, ratifying, on behalf of the state of Pennsylvania, the first amendment proposed by Congress to the constitution of the United States,*" was read the third time, and considered by paragraphs.

Whereupon

Resolved, That the said bill do pass, and that it be transcribed, and transmitted to the Senate, for their concurrence.

Ordered, That Mr. *Gallatin* be a committee, to present the same to the Senate, for their concurrence.

1. Printed: *House Journal*, 495.

Senate Proceedings, Friday, 9 September 1791 (excerpts)¹

A message from the House of Representatives by Mr. Gallatin a member of that House:

Mr. Speaker,

I am directed, by the House of Representatives, to present to the Senate, for their concurrence, the following bills, *viz.*

First. An act ratifying on behalf of the state of Pennsylvania the first amendment proposed by Congress to the constitution of the United States. . . .

Mr. Gallatin accordingly presented the said two bills.

The bill, entitled, "An act ratifying on behalf of the state of Pennsylvania the first amendment proposed by Congress to the constitution of the United States," was read the first time.

1. Printed: *Journal of the Senate of the Commonwealth of Pennsylvania* (Philadelphia, 1791) (Evans 23677), 291. Hereafter cited as *Senate Journal*.

House of Representatives Proceedings, Saturday, 10 September 1791 (excerpts)¹

Mr. *Gallatin*, appointed to present to the Senate, for their concurrence, the bill, entitled "*An Act, ratifying, on behalf of the state of Penn-*

sylvania, *the first amendment proposed by Congress to the constitution of the United States,*” . . . reported that he had performed that service.

1. Printed: *House Journal*, 496–97.

Senate Proceedings, Monday, 12 September 1791¹

On motion of Mr. Smilie, seconded by Mr. Powel, and *Agreed*, That the second reading of the bill, entitled, “An act ratifying on behalf of the state of Pennsylvania the first amendment proposed by Congress to the constitution of the United States,” be the order of the day for Thursday next.

1. Printed: *Senate Journal*, 294.

Senate Proceedings, Thursday, 15 September 1791¹

The bill, entitled, “An act ratifying on behalf of the state of Pennsylvania the first amendment proposed by Congress to the constitution of the United States,” was read the second time and considered paragraph by paragraph.

Section I. being read,

It was moved by Mr. Powel, seconded by Mr. Schmyser,

That the further consideration of the said bill be postponed.

The question being put, was carried in the negative.

The question on section I. being put, was carried in the affirmative.

The title of the bill being read and agreed to.

Resolved, That the said bill do pass, and be transcribed for the third reading.

1. Printed: *Senate Journal*, 298.

Senate Proceedings, Friday, 16 September 1791¹

The bill, entitled, “An act ratifying on behalf of the state of Pennsylvania the first amendment proposed by Congress to the constitution of the United States,” was read the third time and considered paragraph by paragraph.

The title of the bill being read and agreed to,

Resolved, That the said bill do pass.

Ordered, That Mr. Heister be a committee to return the said bill to the House of Representatives, and inform that House that the Senate have passed the same.

1. Printed: *Senate Journal*, 299–300.

House of Representatives Proceedings, Saturday, 17 September 1791¹

Mr. *Hiester*, a committee from the Senate, being introduced, delivered the following message, viz.

“Mr. SPEAKER,

I am directed by the Senate to return the bill, entitled “*An Act, ratifying, on behalf of the state of Pennsylvania, the first amendment proposed by Congress to the constitution of the United States,*” and to inform the House of Representatives that the Senate have passed the same.”

And having presented the said bill to the chair, he withdrew.

1. Printed: *House Journal*, 517.

Senate Proceedings, Saturday, 17 September 1791¹

Mr. Heister reports, That, according to the order of the Senate, he has returned to the House of Representatives the bill, entitled, “An act ratifying on behalf of the state of Pennsylvania the first amendment proposed by Congress to the constitution of the United States,” and informed that House that the Senate have passed the same.

1. Printed: *Senate Journal*, 300.

Senate Proceedings, Monday, 19 September 1791 (excerpts)¹

A message from the House of Representatives by Mr. Carson a member of that House:

“Mr. Speaker,

I am directed, by the House of Representatives, to inform the Senate, that the following bills are engrossed, viz. . . . ‘An act ratifying on the behalf of the state of Pennsylvania the first amendment proposed by Congress to the constitution of the United States,’ and to request the Senate will appoint a committee to join a committee of the House of Representatives to compare the said bills.”²

Whereupon,

Ordered, That Mr. Hubley be a committee to join the committee of the House of Representatives and compare the said bills.

1. Printed: *Senate Journal*, 302.

2. The House message to the Senate is not recorded in the *House Journal*.

Senate Proceedings, Tuesday, 20 September 1791 (excerpts)¹

Mr. Hubley reports, That, according to the order of the Senate, he joined a committee of the House of Representatives and compared the four bills, entitled as follow, *to wit*, . . . An act ratifying on behalf of the

state of Pennsylvania the first amendment proposed by Congress to the constitution of the United States. . . .

A message from the House of Representatives by Mr. Carson a member of that House:

“Mr. Speaker,

I am directed, by the House of Representatives, to present to the Senate, the four following bills, *viz.* . . . An act ratifying on behalf of the state of Pennsylvania the first amendment proposed by Congress to the constitution of the United States . . . which bills are signed by the Speaker of the House of Representatives, and I am directed to request, that the Speaker of the Senate will sign the same, likewise to request, the Senate to appoint a committee to join the committee of the House of Representatives and present the same to the Governor for his approbation.”²

Whereupon, The Speaker signed the said four bills.

Ordered, That Mr. Hubley be a committee to join the committee of the House of Representatives and present the said four bills to the Governor for his approbation.

1. Printed: *Senate Journal*, 305–6.

2. The House message to the Senate is not recorded in the *House Journal*.

House Proceedings, Wednesday, 21 September 1791 (excerpts)¹

The committee appointed for the purpose reported, that they had, in conjunction with a committee of the Senate, compared, and presented to the Governor for his approbation, the four following Acts, *viz.* . . .

3d. *An Act, ratifying, on behalf of the state of Pennsylvania, the first amendment proposed by Congress to the constitution of the United States.*

1. Printed: *House Journal*, 528.

Senate Proceedings, Wednesday, 21 September 1791 (excerpts)¹

The Senate met according to adjournment.

Mr. Hubley reports, That according to the order of the Senate, he joined a committee of the House of Representatives and presented to the Governor, for his approbation, the four bills, entitled, as follow, *viz.* . . . An act ratifying on behalf of the state of Pennsylvania the first amendment proposed by Congress to the constitution of the United States.

1. Printed: *Senate Journal*, 308.

**Governor Thomas Mifflin to the Pennsylvania General Assembly
Philadelphia, 21 September 1791 (excerpt)¹**

GENTLEMEN,

I have this day approved and signed the following acts of the General Assembly; and I have directed the Secretary to return them to the House of Representatives, in which they originated.

I. An Act, ratifying, on behalf of the state of Pennsylvania, the first amendment proposed by Congress to the constitution of the United States. . . .

1. Printed: *House Journal*, 535. Also printed in the *Senate Journal*, 313. The rough and smooth copies of the Executive Minute Book (P-Ar) for 21 September record that "The Governor upon consideration this day approved and signed the following Acts of the General Assembly."

**Act Ratifying Congress' First Amendment to the Constitution
21 September 1791¹**

An ACT, ratifying, on behalf of the state of Pennsylvania, the first amendment proposed by Congress to the constitution of the United States.

Whereas, in pursuance of the fifth article of the constitution of the United States, certain articles, in addition to and amendment of the said constitution, have been proposed by the Congress of the United States, for the consideration of the legislatures of the several states: And whereas the legislature of the state of Pennsylvania, having maturely deliberated thereupon, have resolved to adopt and ratify the article hereafter mentioned, as part of the constitution of the United States:

SECTION I. *Be it enacted by the SENATE and HOUSE OF REPRESENTATIVES of the commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That the following article, in addition to and amendment of the constitution of the United States of America, proposed by the Congress thereof, *viz.*

[Here appears the text of the First Amendment proposed by Congress.]

be, and it is hereby, ratified, on behalf of the state of Pennsylvania, to become, when ratified by the legislatures of three fourths of the several states, part of the constitution of the United States.

WILLIAM BINGHAM, *Speaker
of the House of Representatives.*

RICHARD PETERS, *Speaker
of the Senate.*

Approved, September the twenty-first, 1791.

THOMAS MIFFLIN, *Governor
of the commonwealth of Pennsylvania.*

1. Printed: *Acts of the General Assembly of the Commonwealth of Pennsylvania . . .* (Philadelphia, 1791) (Evans 23671), 114. The engrossed act (P-Ar) is endorsed as: "Inrolled in the Rolls Office for the State of Pennsylvania in Law Book No. 4 p. 214. Witness my Hand and Seal of Office the 1st. October 1791."

**Governor Thomas Mifflin to President George Washington
Philadelphia, 21 September 1791¹**

I have the honor to transmit to you, an exemplified copy of an Act of the General Assembly of the Commonwealth of Pennsylvania, entitled "An Act ratifying, on behalf of the State of Pennsylvania, the first amendment proposed by Congress to the Constitution of the United States"; and to be, with perfect consideration and respect,

1. RC, RG 11, Certificates of Ratification, DNA. Docketed: "Received October 27th. 1791."

House Proceedings, Friday, 23 September 1791¹

The Secretary of the commonwealth being introduced, presented to the chair a message from the Governor, which was read, as follows, *viz.*

[Here appears Governor Mifflin's message of 21 September 1791 (above).]

1. Printed: *House Journal*, 534–35.

Senate Proceedings, Friday, 23 September 1791¹

A message from the Governor by Mr. Dallas the Secretary of the commonwealth:

"Mr. Speaker,

I have the honor to deliver a message from the Governor to the Senate, and to inform you, that, in obedience to his directions, I have returned to the House of Representatives the several acts of the General Assembly, that are mentioned in the message, the same being approved and signed."

The Secretary having accordingly presented the said message, the same was read as follows, *to wit,*

[Here appears Governor Mifflin's message of 21 September 1791 (above).]

1. Printed: *Senate Journal*, 312–13.

House Proceedings, Friday, 30 September 1791 (excerpts)¹

The committee appointed for the purpose reported, that they had deposited in the Rolls-Office the following acts of the General Assembly, *viz.* . . .

IV. An ACT, ratifying, on behalf of the state of Pennsylvania, the first amendment proposed by Congress to the constitution of the United States.

1. Printed: *House Journal*, 572.

**Tobias Lear to Secretary of State Thomas Jefferson
New York, 27 October 1791 (excerpts)¹**

By the President's command T. Lear has the honor to transmit to the Secy of State, to be deposited in his Office, . . .

An exemplified copy of an act of the Legislature of Pennsylvania, ratifying, on behalf of the State of Pennsylvania, the first amendt. proposed by congress to the constitution of the United States.—and a letter accompanying said act from the Governor of Pennsylvania to the President of the U.S.—

1. Typescript, RG 11, Certificates of Ratification, DNA.

**Governor Thomas Mifflin to the General Assembly
Philadelphia, 7 March 1792 (excerpt)¹**

Gentlemen:

. . . By this opportunity you will, also, receive authenticated copies of the ratifications, by three-fourths of the Legislatures of the several states, of certain articles in addition to, and amendment of, the constitution of the United States, proposed by Congress. . . .

1. Printed: *Pennsylvania Archives*, IV, 224. Mifflin sent the Assembly the eleven-page pamphlet printed by order of Congress with the twelve amendments proposed by Congress and the ratification documents by the eleven states. (For a facsimile of the pamphlet, see Appendix II, BoR, I, 621–631.)

**Rhode Island
11 June 1790**

After receiving President George Washington's letter of 2 October 1789 transmitting an engrossed manuscript broadside of Congress' twelve amendments to the Constitution, Governor John Collins sent the broadside to the state assembly. The legislature met on Monday, 12 October, but the lower house did not attain a quorum until Wednesday afternoon. On Thursday, 15 October, the legislature directed its secretary to print 150 copies of the amendments and to send one copy to each clerk of the state's thirty towns. Bennett Wheeler, the printer of the Providence *United States Chronicle*, printed a one-page broadside (Evans 22202) that contained Congress' proposed amendments with Rhode Island's resolution ordering the printing appearing at the bottom of the broadside.

On 29 May 1790 Rhode Island's Convention ratified the Constitution. Anticipating the ratification, the legislature had asked Governor Arthur Fenner to call a special session of the legislature to implement the Constitution. On 11 June the legislature adopted all twelve of Congress' amendments. On 15 June Governor Fenner wrote President Washington informing him of the state's adoption of the amendments. Fenner gave his letter and a copy of the state's ratification to Theodore Foster, his brother-in-law and one of Rhode Island's two U.S. senators. On his arrival in New York City, Foster sent Fenner's letter to the president on 26 June, who forwarded it to Congress.

Rhode Island General Assembly, Thursday, 15 October 1789

State of Rhode-Island, and Providence-Plantations.

In General Assembly, October Session, A.D. 1789.¹

It is Voted and Resolved, That the Secretary be directed to cause to be printed One Hundred and Fifty Copies of the Amendments to the new Constitution, as agreed to by Congress, and which have been communicated by the President of the United States to this Legislature: And that One Copy thereof be sent to each Town-Clerk in the State as soon as may be, to be laid before the Freemen at the Town-meetings to be holden on Monday next, agreeably to a former Resolve of this Assembly,² for their Consideration.

1. The resolution was also printed on page three of the General Assembly Schedule for the October 1789 session ([Providence, 1789]) (Evans 22105). The draft resolution, with the action of both houses on it, is in the Acts and Resolves of the Rhode Island General Assembly, 81, No. 121, at the Rhode Island State Archives. A smooth manuscript copy is in Rhode Island Records 13:667 at the Rhode Island State Archives.

2. On 18 September 1789, the legislature passed an act "Directing Freemen to Instruct Their Representatives upon Calling a Convention" (RCS:R.I., 603-4). The meetings, held on 19 October, overwhelmingly voted against calling a state convention to consider the Constitution. No record remains of the broadside with Congress' amendments being mentioned in any of the town meetings.

House of Magistrates Proceedings, Friday, 11 June 1790¹

No. 4. Vote of the Lower House for Ratifying certain Articles as Amendments to the Constitution of the United States. Was Read & Concurred.

1. MS, House of Magistrates Journal, Rhode Island State Archives.

Act Ratifying Proposed Amendments, 11 June 1790¹

Be it Enacted by this General Assembly, and by the Authority thereof it is hereby Enacted, That the following Articles, proposed by the Congress of the United States of *America*, at their Session in *March*, A.D. 1789, to the Legislatures of the several States, for Ratification, as Amendments

to the Constitution of the said United States, pursuant to the Fifth Article of the said Constitution, be and the same are hereby fully assented to and ratified on the Part of this State, *to wit*:

[The twelve amendments proposed by Congress appear in the act at this point.]

It is Ordered, That his Excellency the Governor be and he is hereby requested, to transmit to the President of the said United States, under the Seal of this State, a Copy of this Act, to be communicated to the Senate, and House of Representatives, of the Congress of the said United States.

1. Printed: "An Act for ratifying certain Articles, as Amendments to the Constitution of the United States of *America*, and which were proposed by the Congress of the said United States, at their Session in *March*, A.D. 1789, to the Legislatures of the several States, pursuant to the Fifth Article of the aforesaid Constitution," Schedule June 1790 (Evans 22837), 4–5. A manuscript draft of the act is in Acts and Resolves of the Rhode Island General Assembly, 111, no. 167, Rhode Island State Archives. A smooth copy of the act is in Rhode Island Records, 13: 753–55, Rhode State Archives. A manuscript copy of the act was sent to President George Washington to be communicated to Congress (RG 11, Certificates of Ratification, DNA). The act was docketed as "Recd. June 29. 1790."

Governor Arthur Fenner Transmitting Rhode Island's Act of Ratification, Providence, R.I., 15 June 1790¹

Arthur Fenner Esquire, Governor, Captain-General, and Commander in Chief of and over the State of Rhode-Island and Providence-Plantations.

Be it known, That Henry Ward Esq. who hath under his Hand certified the annexed Paper, purporting an Act of the General Assembly of the said State, to be a true Copy is Secretary of the said State, duly elected and engaged according to Law.—Wherefore unto his Certificate of that Matter full Faith is to be rendered.

1. RC, RG 11, Certificates of Ratification, DNA.

Senator Theodore Foster to President George Washington New York, 26 June 1790¹

I have the Honor to inform you that his Excellency Governor Fenner of the State of Rhode Island and Providence Plantations, as I was coming from home, in order to take my Place as a Senator, in the National Legislature, sent to my Care the inclosed Copy of an Act of the Legislature of that State, passed at their Session in the present Month, intituled "An Act for ratifying certain Articles as Amendments to the Constitution of the United States of America, and which were proposed by the Congress of the said States at their Session in March A.D. 1789,

to the Legislatures of the Several States, pursuant to the Fifth Article of the aforesaid Constitution.”—Which is certified by the Secretary of the State, under the Seal thereof, with the Signature of the Governor who transmitted the same, by Me, to your Excellency to be communicated to the Senate and House of Representatives of the said United States agreeably to the said Act.—

I have the Honor to be very respectfully

1. RC, RG 11, Certificates of Ratification, DNA.

New York Daily Gazette, 1 July 1790¹

A message was received from the President of the United States, communicating the ratification of the amendments proposed by Congress to the new constitution, by the state of Rhode-Island and Providence Plantations.

1. This item was also printed in the *New York Packet* on 1 July and reprinted at least twenty times by 6 September: N.H. (3), Mass. (2), R.I. (1), Conn. (4), N.Y. (2), Pa. (5), Md. (3), Va. (1). The Providence *United States Chronicle* and the *Providence Gazette* on 17 June, reported that “At this Session an Act was past for ratifying the AMENDMENTS proposed by Congress to the Federal Constitution, except the *Second*,” that was reprinted six times by 30 June: Vt. (2), Mass. (2), R.I. (1), N.Y. (1).

South Carolina 18–19 January 1790

In January and May 1788, both the South Carolina Assembly and the state ratifying Convention debated the ratification of the U.S. Constitution in which Federalists and Antifederalists deliberated over the document’s legitimacy and its lack of a bill of rights. Federalists rejected the idea of a bill of rights, arguing that such bills were usually prefaced with the statement that all men are born free when, in fact, a majority of people in South Carolina were slaves. Antifederalists, however, insisted on a bill of rights, not to empower the state’s slave population, but to ensure the rights of free, white property-owning men. Ultimately, the Convention ratified the Constitution and voted down a motion to appoint a committee to draft a bill of rights, instead recommending amendments to protect the state’s right to control federal elections, direct taxes, oaths of office, and to “retain every power not explicitly relinquished by them” (RCS:S.C. 388–96). The last of which served as impetus for the Tenth Amendment.

On 18 October 1788 Governor Thomas Pinckney sent a message to the state Senate transmitting the amendments to the Constitution recommended by the conventions of Massachusetts, New York, Virginia, and North Carolina. On 9 January 1789 Governor Pinckney submitted another message to the Assembly and Senate with the address and resolutions of the Virginia legislature request-

ing Congress to call another constitutional convention. During the Assembly debate over the election of the governor on 15 January, a question arose concerning the circular letters from the states advocating amendments. Edward Rutledge hoped that the question would not be pressed. A month later, on 18 February, a Senate committee appointed to consider the Governor's message of 9 January reported that it was premature to have another constitutional convention until the new government had a chance to consider amendments already proposed, according to the method prescribed by the Constitution. The report is crossed out and apparently did not pass. On 20 March the Senate committee again reported that until the government was organized and given time to consider amendments according to Article V of the Constitution, it would be unnecessary to call for a second constitutional convention. The report was never sent to the Assembly.

On 4 January 1790, Governor Charles Pinckney transmitted several documents to both houses of the South Carolina legislature, which included Congress' proposed twelve amendments to the Constitution and a letter from New York Governor George Clinton covering a joint resolution from the New York legislature requesting Congress to call a second constitutional convention. On 18 January 1790, the House adopted all twelve proposed amendments, called on Congress to propose the amendments recommended by the South Carolina Convention, and tabled New York's request for a second constitutional convention. On 19 January, the Senate concurred with the Assembly and sent the ratified amendments back to Governor Pinckney. On 28 January, Governor Charles Pinckney transmitted the legislature's ratification to President George Washington, who received the letter 31 March 1790.

By 7 August 1790, the Charleston *Columbian Herald* contained a masthead with an engraving of "Geo. Washington" above the words "CONGRESS SHALL MAKE NO LAW—abridging the FREEDOM OF SPEECH, or of the PRESS.—AMEND. CONSTITUTION UNITED STATES."

Governor Charles Pinckney to the South Carolina Assembly Columbia, S.C., 4 January 1790 (excerpt)¹

... During your Recess, the General Government of the Union has been formed by the assembling of the different Branches of the Legislature—and the qualification of the Executive.—You will receive Copies of all the Acts & Resolutions passed during their late Session, which have been officially transmitted by the President for that purpose. One which will claim your immediate Attention is, the Resolution proposing Amendments to the Constitution of the United States.—These amendments are proposed, as Congress declare, in consequence of a number of the States, having at the Time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction, or abuses of its Powers; that further declaratory & restrictive Clauses should be added.—And, as extending the Ground of Confidence will best ensure the beneficent Ends of its Institution.—They have therefore submitted

them to the Legislatures of the several states in order that they may be ratified, & become a part of the said Constitution—

I have also the Honor to inclose a Letter from the Governor of New-York transmitting a concurrent Resolution of both Branches of the Legislature of that State, on the Subject of an Application for Congress, for another Convention of Deputies from the several States, to revise & amend the federal Constitution. . . .

1. MS, Miscellaneous Legislative Papers, South Carolina Archives Department. (Hereafter cited as Sc-Ar.)

South Carolina Assembly Committee Report on Amendments 8 January 1790¹

The Committee to whom was referred the resolution of Congress proposing amendments to the Constitution of the United States, together with the application of the State of New York to Congress requesting that another general Convention of the states should be convened for the purpose of revising the feederal Constitution. Recommend that the Legislature of this state ~~shall~~ do agree that the several Amendments proposed by Congress be made part of the Constitution of the United States; & that ~~application shall at the same time be made to~~ (the delegates be instructed to apply to) Congress to propose the Amendments recommended by the Convention of this state to the legislatures of the several States in order that they may also be made part of the foederal Constitution.

With Respect to the application of the State of New York for the purpose of convening another general Convention your Committee are of opinion that the measure would at this time be inexpedient & is rendered unnecessary by the Congress having subsequent to the application from New York taken the subject of Amendments to the Constitution under their consideration & proposed the additional Articles the adoption of which your Committee have recommended.

1. MS, Sc-Ar. The nine words in crossed-out type were replaced by the seven words in angle brackets.

Resolution of the South Carolina Legislature, 18–19 January 1790¹

South Carolina Assembly Proceedings, Monday, 18 January 1790

In the House of Represent. January 18 1790

The House took into consideration the Amendments as proposed by the Congress of the United States, to the Constitution of the United States Vizt.—

Whereupon

Resolved that this House do adopt the said several Articles and that they become a part of the Constitution of the United States—

Resolved that the Delegates in the Congress of the United States from this State be instructed to apply to Congress to propose the Amendments recommended by the Convention of this State to the Legislatures of the several States in order that they may also be made part of the Federal Constitution.

Resolved that the application of the State of New York for the purpose of convening another General Convention would at this time be inexpedient and is rendered unnecessary by the Congress having subsequent to the application from New York taken the subject of Amendments to the Constitution under their consideration—

Ordered that the Resolutions be sent to the Senate for their concurrence—

By order of the House
John Sandford Dart. CHR

South Carolina Senate Proceedings, Tuesday, 19 January 1790

Resolved. That this House do concur with the House of Representatives in the foregoing Resolutions.

Ordered That their Resolutions be sent to the House of Representatives.

By Order of the Senate
Felix Warley. Clk.

1. MS, Sc-Ar. Docketed: "Resolutions of the House of Representatives respecting Amendments to Constitution of the United States./18th January 1790/served on the Governor the 22nd inst."

South Carolina Act of Ratification, 18–19 January 1790¹

In the House of Representatives January 18th 1790

THE House took into consideration the Report of the Committee to whom was referred the Resolution of the Congress of the United States of the 4th day of March, 1789 proposing Amendments to the Constitution of the United States.² Vizt.

[Here follows the 12 Amendments proposed by Congress]
Which being read through, was agreed to.

Whereupon, Resolved, That this House do adopt the said several articles, and that they become a part of the Constitution of the United States.

Resolved, that the Resolutions be sent to the Senate for their concurrence—

By order of the House
Jacob Read
Speaker of the House Representatives
In the Senate January 19th 1790

Resolved that this House do concur with the House of Representatives in the foregoing Resolutions.

By order of the Senate
D. DeSaussure
President of the Senate.

1. MS, RG 11, Certificates of Ratification, DNA. Endorsed: "No. 4. Act. South Carolina adopting the Amendments to the Constitution—Recd. March 31st. 1790."

2. The date "4 March 1789" refers to the date of the opening session of Congress; not the date of the passage of proposed amendments.

Charleston City Gazette, 26 January 1790¹

The legislature of this state adjourned on Wednesday last, *sine die*, after a short session of 15 days.

The amendments to the constitution of the united states recommended by congress to the several state legislatures were discussed and adopted; and a resolution agreed to, that the delegates from this state be instructed to use every possible exertion to obtain the alteration which was recommended by the state convention in May 1788, respecting the interference of congress in regulating elections to the federal legislature.

1. Reprinted seven times by 6 April: N.H. (1), Mass. (3), N.Y. (1), Pa. (1), Va. (1).

Governor Charles Pinckney to President George Washington Charleston, 28 January 1790¹

I have the honor to transmit you the entire adoption by the Legislature of this State of the Amendments proposed to the Constitution of the United States.—

I am with the most perfect esteem and Respect.

1. RC, RG 11, Certificates of Ratification, DNA.

New York Weekly Museum, 2 April 1790¹

A message was received [by the U.S. House of Representatives] from the President of the United States by his secretary—with the ratification by South-Carolina of the amendments proposed by Congress to the Constitution of the United States.

1. Reprinted in twenty-seven newspapers by 25 May: N.H. (2), Mass. (5), R.I. (1), Conn. (5), N.Y. (3), Pa. (4), Md. (2), Va. (4), S.C. (1), and in the June 1790 issue of the *New York Magazine*.

Vermont 3 November 1791

Vermont ratified the Constitution on 10 January 1791. About a month later, on 18 February, Congress passed an act admitting Vermont to statehood. On 28 February, U.S. Secretary of State Thomas Jefferson sent Vermont Governor Thomas Chittenden copies of acts of Congress admitting Vermont into the Union and specifying the number of representatives that Vermont and Kentucky were authorized to elect. Jefferson also enclosed a certified copy, dated 25 February, of the twelve amendments to the Constitution proposed by Congress in September 1789. With fourteen states now in the Union, the approval of eleven states was necessary to ratify amendments to the Constitution. Nine states had already ratified at least ten of Congress' twelve amendments.

The Vermont legislature adjourned on 27 January 1791 not to reconvene until 13 October. On Friday morning, 14 October, Governor Chittenden and the Council appeared in the General Assembly. The governor delivered several public "communications," among which was the twelve amendments to the Constitution. On Tuesday afternoon, 1 November, the General Assembly resolved that a grand committee consider the proposed amendments. Although not provided in the state constitution, a grand committee consisted of the governor, Council, and Assembly sitting together as a committee of the whole with the governor presiding. The next day, the grand committee voted that the legislature should adopt the amendments. After the governor and Council left the chamber, the General Assembly accepted the grand committee's recommendation and appointed a three-man committee—Samuel Hitchcock, Jesse Leavenworth, and Lemuel Chipman—to draft a bill adopting the amendments. Later in the morning, the committee reported a bill, which was then read the first time. The next morning, 3 November, the Assembly read the bill a second time, accepted it, and sent it to the Governor and Council for concurrence or amendment. The Assembly received the Council's concurrence in the afternoon. Governor Chittenden ordered the secretary of the Council to send President George Washington a copy of Vermont's adoption of the amendments, which was done on 7 January 1792. On 18 January, Tobias Lear, Washington's secretary, notified Secretary of State Jefferson of Vermont's ratification of the amendments. On 1 March, Jefferson sent letters to the states announcing that ten of the twelve proposed amendments to the Constitution had been adopted.

U.S. Act Admitting Vermont to Statehood, 18 February 1791¹

An ACT for the Admission of the STATE of VERMONT into the Union.

The State of Vermont having petitioned the Congress to be admitted a member of the United States, *Be it enacted by the Senate and House of*

Representatives of the United States of America in Congress assembled, and it is hereby enacted and declared, That on the fourth day of March, one thousand seven hundred and ninety-one, the said State, by the name and stile of “the State of Vermont,” shall be received and admitted into this Union, as a new and entire member of the United States of America.

FREDERICK AUGUSTUS MUHLENBERG,
Speaker of the House of Representatives.

JOHN ADAMS, Vice-President of the United States,
and President of the Senate.

APPROVED, February the eighteenth, 1791.

GEORGE WASHINGTON, *President of the United States.*

1. Broadside, (Philadelphia, 1791). (Evans 23856).

Secretary of State Thomas Jefferson to Governor

Thomas Chittenden, Philadelphia, 28 February 1791 (excerpts)¹

I have the honor to transmit to your Excellency an authenticated copy of the act of Congress for the admission of the State of Vermont into this union. . . .

Permit me at the same time through the channel of your Excellency, to lay before the Legislature of your State an authentic copy of the articles in addition to an amendment of the Constitution of the United States, proposed by Congress to the Legislatures of the several States for their ratification, pursuant to the fifth article of the original Constitution.

1. FC, RG 59, Records of the Department of State, Domestic Letters of the Department of State, 1784–1906, DNA.

Assembly Proceedings, Friday, A.M., 14 October 1791¹

The Governor and Council appeared in the House.—His Excellency laid before the Legislature several communications from different public offices, among which were the proposals of amendments to the Constitution of the United States, communicated from Congress; which were read, and laid on the table.

1. Printed: *A Journal of the Proceedings of the General Assembly of the State of Vermont at their Session at Windsor, October 13th, 1791* (Windsor, Vt., 1792) (Evans 24957), 4. Hereafter cited as *Assembly Journal*. Also in *State Papers of Vermont: Journals and Proceedings of the General Assembly of the State of Vermont . . .*, Parts I–V (Bellows Fall and Montpelier, 1924–1970), III, 6.

Assembly Proceedings, Tuesday, 1 November 1791¹

Resolved, That to-morrow morning be assigned the time, in Grand Committee, to take into consideration the proposed amendments to the Federal Constitution.

1. Printed: *Assembly Journal*, 37; *State Papers of Vermont*, III, 70.

Grand Committee Proceedings, Wednesday, 2 November 1791 (excerpts)¹

The House met pursuant to adjournment.

The Governor and Council appeared in the House, and in Grand Committee . . . proceeded to take into consideration the amendments proposed to the Constitution of the United States, recommended by Congress; which amendments were read.

Voted, That it be recommended to the Legislature to adopt the amendments to be made to the Constitution of the United States, proposed by Congress to the several States.

Attest, ROS. HOPKINS, Clerk.

The House proceeded to business—and took consideration, and adopted the recommendation of the Grand Committee, respecting the amendments proposed to the Constitution of the United States.

Whereupon,

Ordered, that Mess. Hitchcock, Leavenworth, and Chipman, be appointed a Committee to prepare and bring in a bill for adopting the aforesaid amendments.

. . . A bill entitled, *An act ratifying certain articles proposed by Congress, as amendments to the Constitution of the United States*, was read the first time.

1. Printed: *Assembly Journal*, 38, 39; *State Papers of Vermont*, III, 71, 74.

Assembly Proceedings, Thursday, 3 November 1791 (excerpts)¹

The bill, entitled, *An act ratifying certain articles proposed by Congress, as amendments to the Constitution of the United States*, was read the second time, accepted, and sent to the Governor and Council for revision and concurrence, or proposals of amendment.

. . . The following bills returned from Council concurred, and passed into laws of this State: . . .

An act ratifying certain articles proposed by Congress, as amendments to the Constitution of the United States.

1. Printed: *Assembly Journal*, 44; *State Papers of Vermont*, III, 82, 87, 88.

**Vermont Act Ratifying Twelve Amendments to the U.S. Constitution
3 November 1791¹**

An Act ratifying certain articles proposed by Congress as amendments to the Constitution of the United States—

Whereas the Congress of the United States begun and held at the City of New York, on Wednesday the fourth of March one thousand seven hundred and eighty nine—Resolved, that certain articles to the number of twelve be proposed to the Legislatures of the several States as amendments to the Constitution of the United States which articles when ratified by three-fourths of the said Legislatures should be valid to all intents and purposes as part of the said Constitution—Therefore,

It is hereby Enacted by the General Assembly of the State of Vermont, That all and every of said articles so proposed as aforesaid be and the same are hereby ratified and confirmed by the Legislature of this State—
[Endorsed] State of Vermont

Secretary of State Office

I hereby Certify that the within is a true copy of an act passed by the Legislature of this State the third day of November One thousand seven hundred and ninety one and deposited in this office according to law—

attest

Ros. Hopkins Secy.

1. MS, RG 11, Certificates of Ratification, DNA. The act was printed in the *Vermont Gazette*, 27 January 1792, and the *Vermont Journal*, 28 February 1792.

**Governor Thomas Chittenden Certifies Roswell Hopkins as
Vermont Secretary of State, Windsor, Vt., 4 November 1791¹**

By His Excellency Thomas Chittenden Esquire Governor and Captain General in and over the State of Vermont—

I hereby Certify that Roswell Hopkins Esquire is Secretary of State, for this state and that due faith and credit ought to be given to his attestation as secretary of state—

In Testimony whereof I have caused the seal of this state to be affixed at Windsor this fourth day of November One thousand seven hundred and ninety one—

Thos. Chittenden—

Attest, Joseph Fay Secy [of the Governor and Council]

1. MS, RG 11, Certificates of Ratification, DNA.

**Joseph Fay to President George Washington, Bennington, Vt.
7 January 1792¹**

I am directed by His Excellency Governor Chittenden, to Transmit to you, a Copy of an Act of the Legislature of this State, ratifying sundry

articles of Amendments (proposed by Congress) to the Constitution of the United States, which you will receive herewith.

I have the honor to be your Excellency's most obedient and most Humble Servant

Joseph Fay, Secry to the Govr. & Council

1. MS, RG 11, Certificates of Ratification, DNA.

President George Washington to Congress, Philadelphia

18 January 1792¹

I lay before you a copy of an exemplified copy of an Act of the Legislature of Vermont, ratifying, on behalf of that State, the Articles of amendment proposed by Congress to the Constitution of the United States, together with a copy of a letter which accompanied said ratification.

1. MS, RG 46, Second Congress, 1791–1793, Records of Legislative Proceedings, President Messages, DNA.

Virginia

15 December 1791

On 27 June 1788, two days after voting to ratify the Constitution, the Virginia Convention voted to recommend that the first federal Congress adopt over forty amendments to the Constitution. In November 1788 the Virginia General Assembly adopted a resolution requesting that the first federal Congress call a constitutional convention to consider amendments. (See BoR, I, 158–95.) New York was the only other state that requested that Congress call such a convention. Rather, on 25 September 1789 Congress, at the instigation of James Madison, resolved that twelve amendments to the Constitution be submitted to the state legislatures for their consideration.

On 28 September 1789 Virginia's U.S. Senators Richard Henry Lee and William Grayson (both former Antifederalists) sent Congress' amendments to Governor Beverley Randolph and to the Speaker of the Virginia House of Delegates. Lee and Grayson expressed their dissatisfaction with Congress' amendments. On 2 October 1789 President George Washington officially transmitted Congress' amendments to the state governors. On 19 October Governor Randolph sent a message to the Speaker of the Virginia House of Delegates enclosing Lee and Grayson's letter and the responses of New York, Pennsylvania, and Massachusetts to Virginia's resolution requesting Congress to call a constitutional convention.

The House of Delegates considered Congress' amendments in a committee of the whole on 25 November 1789. Five days later on 30 November the House read, amended, and agreed to the committee of the whole's report which called for the adoption of all twelve amendments that were said to be "con-

formable” to the amendments recommended by the Virginia ratifying Convention in June 1788. The House also ordered the printing of 200 copies of Congress’ amendments and the House of Delegates’ resolution adopting them. Two weeks later, on 2 December the House of Delegates also resolved that Congress consider the other amendments proposed by the Virginia Convention.

On 2 December, the Virginia Senate received the Delegates’ resolution of 30 November ratifying the amendments. After a week’s consideration in a committee of the whole, the Senate voted to postpone its further consideration of amendments 3, 8, 11, and 12 until its next session scheduled for 7 January 1790. On 12 December the delegates who favored a postponement were allowed to place their reasons for the postponement on the Senate’s journal. The opponents of postponement objected to allowing the majority a privilege previously reserved only for minorities to post their reasons for objecting to measures.

The majority objected to Congress’ third amendment (the future First Amendment) because it did not go far enough protecting a variety of rights and did not mention the freedom of conscience. It was also feared that the amendment would allow Congress to allocate federal tax dollars to different religious sects even though there would be no established state religion. This objection was somewhat ironic because the amendment was drafted and supported by James Madison, who in 1784–1786 had opposed a measure advocated by Patrick Henry that would have allocated state funds to support the salaries of non-Catholic Christian ministers. The eighth amendment was opposed because it did not guarantee jury trials of the vicinage. The majority opposed the eleventh amendment because no state had asked for such an amendment and the vague protection it offered rights could be easily refuted, while the objection to the twelfth amendment rested on the reservation of powers “to the people.” It was feared that “the people” referred to the people throughout the country rather than the people in each state. The advocates for postponement felt that Congress’ amendments were “by no means sufficient to secure the rights of the people, or to render the government safe and desirable.” The four senators who objected to the postponement were allowed to put their objections on the journal stating that the four amendments offered protection for rights, they did not preclude other amendments, and that the eleventh amendment did not specifically endanger liberties.

On 9 August 1790, Virginia’s U.S. Senator Richard Henry Lee wrote the Speaker of the Virginia House of Delegates indicating that Virginia’s adoption of Congress’ amendments would provide the necessary three-fourths of the state ratifications to adopt the amendments. The House received Lee’s letter on 19 October and about a month later voted to consider the amendments in a committee of the whole. No other mention of the amendments appear on the journals.

On 17 October 1791 Governor Beverley Randolph sent a message to the House of Delegates. The next day the message and the accompanying papers were “ordered to lie on the table.” A week later, on 24 October, the House considered the Governor’s message and papers in a committee of the whole. The next day, the committee of the whole’s report advocating the adoption of

Congress' first amendment dealing with the size of the U.S. House of Representatives was read a first and second time and then approved by the House. The Senate approved the first amendment on 3 November. Governor Randolph sent this ratification to President George Washington on 4 November. Washington received the letter on 11 November and on that day the ratification was sent to Secretary of State Thomas Jefferson.

On 5 December 1791 the House of Delegates adopted Congress' remaining eleven amendments. The Senate received the House's ratification on 6 December and agreed to consider the measure in a committee of the whole. The Senate postponed consideration for five days before taking up the measure on 13 December. On 15 December the Senate adopted the committee's report ratifying the last eleven amendments and notified the House of this action. The Virginia General Assembly formally adopted each of these amendments on 15 December. The eleven enrolled bills were prepared, compared, and signed on 19 December. Three days later Virginia Governor Henry Lee sent the ratification documents to President George Washington, who had his secretary transmit them to Secretary of State Jefferson on 30 December. Jefferson notified the states on 1 March 1792 that ten of Congress' twelve amendments had been adopted by the necessary three-fourths of the state legislatures and therefore had become part of the U.S. Constitution.

Letters from Senators Richard Henry Lee and William Grayson New York, 28 September 1789

Virginia was unique in that it elected two Antifederalists to the first United States Senate. Richard Henry Lee had been appointed to the Constitutional Convention by the state legislature but he refused the appointment. Lee served in the Confederation Congress where he actively took part in the debate over the transmittal of the Constitution to the states. In that debate, on 27 September 1787, Lee proposed amendments to the Constitution including a bill of rights (CC:95). Lee's letter to Virginia Governor Edmund Randolph, 16 October 1787 outlined his objections to the Constitution and appended his proposed bill of rights. The letter and Lee's proposed bill of rights were printed in the Petersburg *Virginia Gazette*, 6 December 1787, and were widely reprinted throughout the country (BoR, I, 145–48; CC:325). Lee did not stand for election to the Virginia ratifying Convention.

Like Lee, William Grayson served in the Confederation Congress and took part in the September 1787 debate to transmit the Constitution to the states. Grayson was one of the leading Antifederalist speakers in the Virginia Convention in June 1788.

The recipient copies of both letters are in Virginia Miscellany (1779–1789), AC 2313, Library of Congress. Both letters were printed in a non-extant December 1789 issue of the Richmond *Virginia Gazette and Public Advertiser*, published by John Dixon, the state printer. Both letters were reprinted in at least seventeen newspapers—the letter to Governor Beverley Randolph: Vt. (1), Mass. (3), R.I. (1), Conn. (3), N.Y. (5), Pa. (3), Md. (1); and the letter to the Speaker of the Virginia House of Delegates: Mass. (3), R.I. (1), Conn. (3), N.Y. (5), Pa. (3), Md. (2), Va. (1). Both letters were also printed as a one-page

broadside that was sent to George Washington by Governor Randolph on 26 November 1789 (Abbot, *Washington, Presidential Series*, IV, 326–27n). Dixon's newspaper publication of the letters was prefaced with a note from "A Customer" dated 10 December 1789:

Mr. Dixon, I have long waited with anxious expectation of seeing exhibited to the public, through the channel of your useful Gazette, the letters from our Federal Senators, to the Governor and the Speaker of the House of Delegates, on the subject of amendments as agreed on by Congress, referred to the different state legislatures for ratification; and as I find the Assembly has manifested no intention of rendering communicative their letters among the people, I must beg leave to enclose you copies thereof, and request you will give them a place in your next paper, and you will greatly oblige sir, Your most obedient, and humble servant, A CUSTOMER.

This prefatory note was reprinted in at least ten newspapers: Vt. (1), Mass. (1), Conn. (1), N.Y. (3), Pa. (3), Md. (1). A satirical criticism of Lee and Grayson's letters was printed in the Litchfield, Conn., *Monitor*, 19 January 1790; the *Massachusetts Centinel* and New York *Daily Advertiser*, 20 January; and *State Gazette of North Carolina*, 13 February.

*To Governor Beverley Randolph, New York, 28 September 1789*¹

We have long waited in anxious expectation of having it in our power to transmit effectual amendments to the Constitution of the United States, and it is with grief that we now send forward propositions so inadequate to the purpose of real and substantial amendment, and so far short of the wishes of our Country. By perusing the Journal of the Senate, your Excellency will see that we did in vain bring to view the amendments proposed by our Convention, and approved by the Legislature. We shall transmit a complete set of the Journals of both houses of Congress to your Address, which with a letter accompanying them, we entreat that your Excellency will have the goodness to lay before the honorable Legislature at the ensuing meeting. We have the honor to be, with every sentiment of respect and esteem

1. RC, Virginia Miscellany (1773–1789), AC 2313, DLC.

*To the Speaker of the Virginia House of Delegates
New York, 28 September 1789*¹

We have now the honor of enclosing the proposition of Amendments to the Constitution of the United States that has been finally agreed upon by Congress. We can assure you, Sir, that nothing on our part has been omitted to procure the success of those radical amendments

proposed by the Convention, and approved by the Legislature of our country, which as our Constituent, we shall always deem it our duty, with respect and reverence to obey. The journal of the Senate herewith transmitted, will at once shew how exact and how unfortunate we have been in this business. It is impossible for us not to see the necessary tendency to consolidated empire in the natural operation of the Constitution, if no further amended then as now proposed; And it is equally impossible for us not to be apprehensive for Civil Liberty, when we know of no instance in the records of history, that shew a people ruled in freedom when subject to one undivided government, and inhabiting a territory so extensive as that of the United States: And when, as it seems, to us, the nature of man and of things join to prevent it. The impracticability in such case, of carrying representation sufficiently near to the people for procuring their confidence and consequent obedience, compels a resort to fear resulting from great force, and excessive power in government. Confederated Republics, where the federal hand is not possessed of absorbing power, may permit the existence of freedom, whilst it preserves union, strength, and safety. Such amendments therefore, as may secure against the annihilation of the State governments we devoutly wish to see adopted.

If a persevering application to Congress from the States that have desired such amendments should fail of its object, we are disposed to think, reasoning from causes to Effects, that unless a dangerous Apathy should invade the public mind, it will not be many years before a constitutional number of Legislatures will be found to *demand* a Convention for the purpose.

We have sent a complete set of the Journals of each house of Congress, and thro the appointed channel will be transmitted the Acts that have passed this Session, in these will be seen the nature and extent of the judiciary, the estimated expences of the government, and the means, so far adopted for defraying the latter.

We beg Sir to be presented with all duty to the Honorable House of Representatives, and to assure you that we are with every sentiment of respect and esteem

1. RC, Virginia Miscellany (1773–1789), AC 2313, DLC.

Governor Beverley Randolph to the Speaker of the Virginia House of Delegates, Richmond, 19 October 1789 (excerpts)¹

I do myself the Honour to transmit to You, all such Papers and Information, as I have received since the rising of the last Assembly, and which appear to be worthy the Attention of the Legislature. . . .

Letters from the Governors of New York and Massachusetts Bay, and from the President of Pennsylvania in answer to mine, inclosing Copies of the Application of the General Assembly, to the Congress of the United States to call a Convention, for proposing Amendments to the Fœderal Constitution, will be found in No. 8. I have not received answers from any other of the States. . . .

The Amendments proposed by the Congress of the United States, to the Fœderal Government accompanied by a letter from the Honourable Richard Henry Lee and William Grayson Esquires, with an Extract from the Journal of the Senate on the same Subject, will be found in No. 12. . . .

1. MS, Executive Communications, Archives Division, Virginia State Library. (Hereafter Vi.) Docketed: Governor's General letter inclosing sundry Papers numbered from 1 to 15—/October 19th 1789—/To lie on the table."

**Governor Beverley Randolph to President George Washington
Richmond, 20 October 1789¹**

I have had the honour to receive yours of the Second instant inclosing a Copy of the Amendments proposed to be added to the Constitution of the United States.

1. FC, Executive Letter Book, 1788–92, Archives Division, Vi.

House of Delegates Proceedings, Wednesday, 25 November 1789¹

The House, according to the order of the day, resolved itself into a committee of the whole House on the state of the Commonwealth; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Selden reported, that the committee had, according to order, had the state of the Commonwealth under their consideration, and had come to several resolutions thereupon, which they had directed him to report when the House should think proper to receive the same.

Ordered, That the said report be received on Friday next.

Resolved, That this House will, on Friday next, resolve itself into a committee of the whole House on the state of the Commonwealth.

1. *Journal of the House of Delegates of the Commonwealth of Virginia* [1789] (Richmond, 1828), 82. Hereafter cited as *House Journal*.

House of Delegates Proceedings, Monday, 30 November 1789¹

Mr. Selden reported, from the committee of the whole House on the state of the Commonwealth, according to order, the resolutions agreed on Wednesday last, respecting the amendments proposed by Congress

to the constitution of government of the United States; and he read the same in his place, and afterwards delivered them in at the clerk's table, where the same were again twice read, amended, and agreed to by the House, as followeth:

The Senate and House of Representatives of the United States, having proposed to the Legislatures of the several States, certain articles, as amendments to the Constitution of the United States, all, or any of which articles, when ratified by three-fourths of the said Legislatures, are to be valid to all intents and purposes, as part of the said constitution;

Resolved, that it is the opinion of this committee, That such of the said articles as are conformable with the alterations recommended to the consideration of Congress by the Convention of this Commonwealth, ought to be ratified, that is to say, articles the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth.²

Resolved, that it is the opinion of this committee, That two hundred copies of the said articles, and of the proceedings of the General Assembly thereupon, ought to be printed, and distributed in due proportion, by order of the Executive, among the several counties and cities, and the borough of Norfolk.

Ordered, That Mr. Selden do carry the resolutions to the Senate, and desire their concurrence.

1. Printed: *House Journal*, 90–91.

2. The adoption of all of Congress' twelve amendments by the Virginia House of Delegates was reported in the *Virginia Centinel*, 9 December, and the *Virginia Herald*, 10 December. The *Maryland Journal*, 8 January 1790, also reported that the Virginia House of Delegates had unanimously approved the amendments but added that "the Senate have postponed their final Determination on them, until their next Meeting."

Senate Proceedings, Wednesday, 2 December 1789¹

A message from the House of Delegates by Mr. Selden:

MR. SPEAKER,—The House of Delegates have agreed to several resolutions, ratifying the amendments proposed by Congress to the constitution of the United States;" to which they desire the concurrence of the Senate. And he delivered in the same, and then withdrew.

The said resolutions were read the first time; and ordered to be committed to a committee of the whole House, to-morrow.

1. *Journal of the Senate of Virginia* [1789] (Richmond, 1828), 37. Hereafter cited as *Senate Journal*.

House of Delegates Proceedings, Wednesday, 2 December 1789¹

The House, according to the order of the day, resolved itself into a committee of the whole House on the state of the Commonwealth; and

after some time spent therein, Mr. Speaker resumed the chair, and Mr. Wormeley reported, that the committee had, according to order, had the state of the Commonwealth under their consideration, and had come to several resolutions thereupon, which he read in his place, and afterwards delivered in at the clerk's table, where the same were again read, and are as followeth:

Resolved, that it is the opinion of this committee, That the General Assembly in obedience to the will of the people, as expressed by the Convention, by which certain alterations in the Constitution of the United States were recommended, ought to urge to Congress the reconsideration of such as are not included in the amendments already adopted by this Commonwealth.

Resolved, that it is the opinion of this committee, That a representation ought to be made to Congress, in pursuance of the foregoing resolution.

1. Printed: *House Journal*, 96.

Senate Proceedings, Thursday, 3 December 1789 (excerpts)¹

The orders of the day, for this House to resolve itself into a committee of the whole House, . . . on the resolution of the House of Delegates, ratifying the amendments proposed by Congress to the constitution of the United States, being read;

Ordered, That the same be put off till to-morrow.

And then the House adjourned till to-morrow morning, 11 o'clock.

1. Printed: *Senate Journal*, 41–42.

Senate Proceedings, Friday, 4 December 1789 (excerpts)¹

The orders of the day, for this House to resolve itself into a committee of the whole House, . . . on the resolutions of the House of Delegates, ratifying the amendments proposed by Congress to the constitution of the United States, being read;

Ordered, That the same be put off till to-morrow.

1. Printed: *Senate Journal*, 44.

House of Delegates Proceedings, Saturday, 5 December 1789¹

The House proceeded to consider the resolutions reported from the committee of the whole House on the state of the Commonwealth, respecting the amendments proposed by the Convention of this State

to the Constitution or government of the United States, which lay on the table; and the same being read, are as followeth:

Resolved, that it is the opinion of this committee, That the General Assembly, in obedience to the will of the people, as expressed by the Convention, by which certain alterations in the Constitution of the United States were recommended, ought to urge to Congress the reconsideration of such as are not included in the amendments already adopted by this Commonwealth.

Resolved, that it is the opinion of this committee, That a representation ought to be made to Congress, in pursuance of the foregoing resolution.

The 1st resolution being read a second time, a motion was made, and the question being put to amend the same, by striking out from the word "resolved," to the end of the resolution, and inserting in lieu thereof the following words:

"That a communication from the Legislature of this State to the Congress of the United States ought to be made, expressing their ardent desire, that such of the amendments of the Virginia Convention, as have not been proposed by the Congress to the several States, to be established as part of the Constitution of the United States, be reconsidered and complied with."

The House divided.

Ayes, 62.

Noes, 62.

Whereupon, Mr. Speaker declared himself with the noes.

The ayes and noes being called for by Mr. Jones, and seconded by Mr. Preston;

The names of those who voted in the affirmative are, John Trigg, Thomas Leftwich, Charles Smith, jun., Binns Jones, Sterling Edmunds, John Clarke, John Hunter, Anthony New, Bernard Todd, Henry Southall, Benjamin Harrison, George Markham, Matthew Cheatham, French Strother, Peterson Goodwyn, George Booker, James Upshaw, jun. of Essex, Richard Banks, Ludwell Lee, Charles Scott, Samuel Richardson, William Payne, jun., Joshua Rentfro, Samuel Hairston, John Guerrant, jun., Batte Peterson, Henry E. Coleman, William Terry, Thomas Tinsley, John Winston, Nathaniel Wilkinson, Francis Boykin, Benjamin Eley, Abner Field, William Roane, John Taliaferro, Benjamin Temple, Matthew Myers, Albert Russell, William Gunnell, Henry Pawling, Sterling Niblett, John Stevenson, Samuel Hopkins, Alexander Robertson, Samuel Taylor, Thomas Pindal, Willis Riddick, John Clopton, John Giles, Willis Wilson, William Nelms, Benjamin Lankford, Tarlton Woodson, Henry Washington, Thomas Carter, Andrew Buchanan, John Howell

Briggs, Thomas Edmunds, John Scasbrook Langhorn, Samuel Edmiston and William Nelson.

And the names of those who voted in the negative are, Thomas Custis, Wilson Cary Nicholas, Francis Walker, Zachariah Johnston, John Tate, Joseph Swearingen, Robert Harvey, James Breckenridge, Thomas Anderson, James Upshaw of Caroline, Clement Carrington, David Jameson, jun., John Woodson, Miles King, Roger West, John Hawkins, Robert Randolph, Joseph Holmes, Mann Page, Mordecai Cooke, Thomas Underwood, Hugh Caperton, Isaac Parsons, Isaac Miller, John Prunty, Isaac Vanmetre, William Heath, William Norvell, John Pierce, Larkin Smith, Daniel Fitzhugh, James Wallace Ball, John Overton, Francis Corbin, William M'Cleery, Francis Preston, Burwell Bassett, jun., Hardin Burneley, Isaac Davis, jun., Peter Holt, William Patton, Edward Carrington, John Macon, Alexander Henderson, Thomas Lawson, Jonathan Parsons, Cornelius Bogard, Walker Tomlin, John Bowyer, William M'Kee, Francis Kirtley, George Baxter, James Wilkinson, George Brent, John Allen, James Kee, William Tate, Henry Lee, Richard Lee, Robert Shield, Edmund Randolph and John Marshall.

And then the main question being put, that the House do agree to the said resolution;

It was resolved in the affirmative.

The 2d resolution being read a second time was, on the question put thereupon, agreed to by the House.

Ordered, That a committee be appointed to prepare a representation to the Congress of the United States, in pursuance of the foregoing resolutions.

And a committee was appointed, of Messrs. Wormeley, Edmund Randolph, Corbin, Zane, Edward Carrington, Nicholas, Breckenridge, Henry Lee, King and Henderson.

1. Printed: *House Journal*, 101–2.

Senate Proceedings, Saturday, 5 December 1789¹

The House, according to the order of the day, resolved itself into a committee of the whole House, on the resolutions of the House of Delegates, ratifying the amendments proposed by Congress to the constitution of the United States; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Wills reported, that the committee had, according to order, had the said resolutions under their consideration, and made some progress therein, but not having time to go through the same, had directed him to move for leave to sit again.

Resolved, That this House will, again on Monday next, resolve itself into a committee of the whole House, to take the said resolutions under their further consideration.

1. Printed: *Senate Journal*, 46.

Senate Proceedings, Monday, 7 December 1789¹

The House, according to the order of the day, again resolved itself into a committee of the whole House, on the resolutions of the House of Delegates, ratifying the amendments proposed by Congress to the constitution of the United States; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Wills reported, that the committee had, according to order, again had the said resolutions under their consideration, and made a further progress therein, but not having time to go through the same, had directed him to move for leave to sit again.

Resolved, That this House will, again to-morrow, resolve itself into a committee of the whole House, to take the said resolutions under their further consideration.

1. Printed: *Senate Journal*, 48.

Senate Proceedings, Tuesday, 8 December 1789¹

The House, according to the order of the day, resolved itself into a committee of the whole House, on the resolutions of the House of Delegates, ratifying the amendments proposed by Congress to the constitution of the United States; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Wills reported, that the committee had, according to order, again had the said resolutions under their consideration, and had gone through the same, and made several amendments thereto, which he delivered in at the clerk's table, where they were twice read, and are as follow, viz:

Line 9th, strike out "third;" same line, strike out "eighth;" same line, after the word "ninth," insert "and;" line 10th, strike out "eleventh;" same line, strike out "twelfth," and insert "that the third, eighth, eleventh and twelfth amendments, be postponed till the next session of Assembly, for the consideration of the people;" line 11th, strike out "two hundred," and insert "one thousand."

The question was put on the 1st amendment, and agreed to by the House—Ayes 8—Noes 7.

The ayes and noes being required by Mr. Nelson, seconded by Mr. Anderson;

Ayes,—John Pride, Turner Southall, John S. Wills, Matthew Anderson, Stephens Thomson Mason, Joseph Jones, William Russell and John Pope.

Noes,—Alexander St. Clair, John P. Du-Val, Nicholas Cabell, John Kearnes, Levin Joynes, James Taylor and Hugh Nelson.

The question was put on the 2d amendment, and agreed to by the House—Ayes—8—Noes 6.

Ayes,—Turner Southall, John S. Wills, Matthew Anderson, Stephens Thomson Mason, Joseph Jones, William Russell, John Pope and John Kearnes.

Noes,—Alexander St. Clair, John P. Du-Val, Nicholas Cabell, Hugh Nelson, Levin Joynes and James Taylor.

The question was put on the 3rd amendment, and agreed to by the House.

The question was put on the 4th amendment, and agreed to by the House—Ayes—8—Noes 7.

The ayes and noes being required by Mr. Nelson, seconded by Mr. Anderson;

Ayes,—John Pride, Turner Southall, John S. Wills, Matthew Anderson, Stephens Thomson Mason, Joseph Jones, William Russell and John Pope.

Noes,—Alexander St. Clair, John P. Du-Val, Nicholas Cabell, Hugh Nelson, John Kearnes, Levin Joynes and James Taylor.

The question was put on the 5th amendment, and agreed to by the House—Ayes—8—Noes 7.

The ayes and noes being required by Mr. Nelson, seconded by Mr. Anderson;

Ayes,—John Pride, Turner Southall, John S. Wills, Matthew Anderson, Stephens Thomson Mason, Joseph Jones, John Pope and William Russell.

Noes,—Alexander St. Clair, John P. Du-Val, Nicholas Cabell, Hugh Nelson, John Kearnes, Levin Joynes and James Taylor.

The question was put on the 6th amendment, and agreed to by the House—Ayes—10—Noes 4.

The ayes and noes being required by Mr. Nelson, seconded by Mr. Anderson;

Ayes,—Turner Southall, John S. Wills, Matthew Anderson, Stephens Thomson Mason, Joseph Jones, William Russell, John Pope, Nicholas Cabell, John Kearnes and Levin Joynes.

Noes,—Alexander St. Clair, John P. Du-Val, James Taylor and Hugh Nelson.

The question was put on the 7th amendment, and agreed to by the House.

And then the question being put, that the House do agree to the said resolutions, so amended,

It was resolved in the affirmative.

Ordered, That Mr. Taylor do acquaint the House of Delegates therewith, and desire their concurrence to the amendments.

A motion was made, that the House do agree to the following resolution:

Resolved, That all or any of the members who voted for the postponement of the 3rd, 8th, 11th and 12th articles of amendments to the constitution of the United States, be allowed to enter on the Journals of this House, the reasons which have influenced their votes, and all or any of their objections to the articles so postponed.

And the said resolution being read a second time, was agreed to by the House—Ayes—7—Noes 6.

The ayes and noes being required by Mr. Cabell, seconded by Mr. Pope;

Ayes,—Turner Southall, John S. Wills, Matthew Anderson, Stephens Thomson Mason, Joseph Jones, William Russell and John Pope.

Noes,—Alexander St. Clair, John P. Du-Val, James Taylor, Nicholas Cabell, John Kearnes and Levin Joynes.

1. Printed: *Senate Journal*, 51–52. Excerpts from the journal (without the roll call votes) were reprinted (under a Richmond dateline of 23 December) in the *New York Packet* and the *New York Daily Advertiser*, 7 January 1790. Both newspapers misdated the excerpts as 7 December.

House of Delegates Proceedings, Wednesday, 9 December 1789¹

A message from the Senate by Mr. Taylor:

MR. SPEAKER,—The Senate have agreed to the resolutions ratifying the amendments proposed by Congress to the Constitution of government of the United States, with several amendments; to which they desire the concurrence of this House. . . . And then he withdrew.

1. Printed: *House Journal*, 111.

House of Delegates Proceedings, Friday, 11 December 1789¹

The House proceeded to consider the amendments of the Senate to the resolution, ratifying the amendments proposed by Congress to the

Constitution of government of the United States; and the same being read, are as followeth:

Line 9th. Strike out these words, “third,” “eighth.”

Same line. After the word “ninth,” insert “and.”

Line 10th. Strike out these words, “eleventh and twelfth,” and insert “and that the third, eighth, eleventh and twelfth amendments shall be postponed till the next session of Assembly, for the consideration of the people.”²

The 1st, 2d and 3d amendments being again read were, on the questions put thereupon, disagreed to by the House.

The last amendment being again read was, on the question put thereupon, agreed to by the House.

Ordered, That Mr. Selden do acquaint the Senate therewith.

On a motion made,

Ordered, That a free conference be desired with the Senate, on the subject matter of the foregoing amendments; and that Mr. Edmund Randolph do acquaint the Senate therewith.

1. Printed: *House Journal*, 117–18.

2. The Petersburg *Virginia Gazette*, 24 December 1789 (not extant), reported: “We learn that the amendments proposed by Congress to the constitution were unanimously agreed to by the House of Delegates; but that the Senate have adjourned their final determination on them until the next session.” This item was reprinted in the New York *Daily Advertiser*, 14 January 1790, under the dateline of “Petersburg, Dec. 24.” A similar report appeared in the *Maryland Journal*, 8 January 1790.

Senate Proceedings, Friday, 11 December 1789¹

A message from the House of Delegates by Mr. Edm’d Randolph:

MR. SPEAKER,—The House of Delegates have disagreed to the 1st, 2d and 3d, and agreed to the last of the Senate’s amendments to the resolutions of the House of Delegates, ratifying the amendments proposed by Congress to the constitution of the United States. And he delivered in the resolutions, with the amendments, and then withdrew.

The House [i.e., the Senate] proceeded to consider the amendments disagreed to by the House of Delegates; and the same being read, were insisted upon.

Ordered, That Mr. Mason do acquaint the House of Delegates therewith.

1. Printed: *Senate Journal*, 58–59.

House of Delegates Proceedings, Saturday, 12 December 1789¹

A message from the Senate by Mr. Mason:

MR. SPEAKER,—The Senate have appointed managers on the part of their House to the free conference desired by this House, on the sub-

ject matter of the amendments disagreed to by this House, and insisted on by the Senate to the resolution ratifying the amendments proposed by Congress to the Constitution of government of the United States, and they are now attending in the conference chamber. And then he withdrew.

Ordered, That Messrs. Edmund Randolph, Henry Lee, Zachariah Johnston, Corbin, Marshall, Edward Carrington, Zane and Nicholas, be appointed managers at the said free conference on the part of this House, and that they do now withdraw to attend the said free conference.

The managers accordingly withdrew; and after some time returned into the House and reported, that they had, according to order, met the managers on the part of the Senate in the conference chamber, and freely discussed the subject matter of the amendments disagreed to by this House, and insisted on by the Senate to the resolution ratifying the amendments proposed by Congress to the Constitution of government of the United States, and that the managers on the part of the Senate had withdrawn, having promised to report to their House the reasons urged by the managers on the part of this House at the said free conference.

1. Printed: *House Journal*, 119.

Senate Proceedings, Saturday, 12 December 1789¹

This House having on Tuesday last, resolved that all or any of the members who voted for the postponement of the 3d, 8th, 11th and 12th articles of amendments to the constitution of the United States, be allowed to enter on the Journals of this House, the reasons which have influenced their vote, and all or any of their objections to the articles so postponed—The following reasons were this day ordered to be entered, to wit:²

The Senate of Virginia having determined to postpone, until the next session of Assembly, the 3d, 8th, 11th and 12th articles of the amendments to the Constitution of the United States, recommended by Congress, we, the underwritten members of the majority on that question, deem it incumbent on us, not only from the respect we owe to our constituents, and our responsibility to them, but in order to prevent doubt and misrepresentation, to enter on the Journals of the House, the considerations which have influenced our decision on this subject, and our principal objections to those articles.

We are satisfied that the people of Virginia would never have ratified the constitution of the United States, but from a confident hope and

firm persuasion of speedily seeing it much more materially altered and amended, than it would be by ratifying the propositions lately submitted by Congress to the State Legislatures.

That although we consider some of the amendments offered as similar, and others nearly equivalent, to a part of the amendments proposed by Virginia and other States, yet, that some of them which seem analogous to other amendments so proposed, are not substantially the same, and fall far short of affording the same security to personal rights, or of so effectually guarding against the apprehended mischiefs of the government; of this description we consider the 3d, 8th, 11th and 12th articles.

We conceive that the 3d article, which seems given in lieu of the 15th, 16th, 19th and 20th articles of the bill of rights, proposed by the Virginia Convention, will not bear a comparison with those articles.

The 15th, expressly declares the right of the people to assemble together to consult for the common good, to instruct their representatives, and to petition for redress of grievances. The 16th, asserts the right of the people to freedom of speech, and of writing and publishing their sentiments, and secures the liberty of the press. The 19th and 20th, hold sacred the rights of conscience, secures to every religious sect or society, the most perfect equality, and effectually guards against any religious establishments.

The 3d amendment, recommended by Congress, does not prohibit the rights of conscience from being violated or infringed; and although it goes to restrain Congress from passing laws establishing any national religion, they might, notwithstanding, levy taxes to any amount, for the support of religion or its preachers; and any particular denomination of christians might be so favored and supported by the General Government, as to give it a decided advantage over others, and in process of time render it as powerful and dangerous as if it was established as the national religion of the country.

This amendment does not declare and assert the right of the people to speak and publish their sentiments, nor does it secure the liberty of the press. Should these valuable rights be infringed or violated by the arbitrary decisions of Judges, or by any other means than a legislative act directly to that effect, the people would have no avowed principle in the constitution to which they might resort for the security of these rights.

The right of the people to instruct their representatives, and their right to consult with each other for the common good, seem too evident to be questioned in a republican government; yet, these rights are denied by Congress, and they have refused to allow any amendments

declaratory of them, as we discover by their Journals; and even the humble privilege of petitioning against oppression is not fully asserted or secured; as this privilege may be abridged or rendered nugatory without any law upon the subject, not to mention other means, it might be defeated by a rule of either House, without violating the 3d article of the amendments.

This amendment then, when considered as it relates to any of the rights it is pretended to secure, will be found totally inadequate, and betrays an unreasonable, unjustifiable, but a studied departure from the amendment proposed by Virginia and other States, for the protection of these rights. We conceive that this amendment is dangerous and fallacious, as it tends to lull the apprehensions of the people on these important points, without affording them security; and mischievous, because by setting bounds to Congress, it will be considered as the only restriction on their power over these rights; and thus certain powers in the government, which it has been denied to possess, will be recognized without being properly guarded against abuse.

The 8th article of the proposed amendments, so far from securing the valuable trial by a jury of the vicinage in criminal prosecutions, leaves Congress the same power to abridge this right as they possess by the original constitution. They have already by law fixed the districts co-extensive with the respective States; and they will at all times possess the power of regulating the districts at pleasure, so that there appears to us nothing in this amendment to restrain government from carrying a man accused of a crime, out of his own neighbourhood to any distance within the limits of a State, to be tried by strangers, perhaps enemies, where the advantages of this excellent mode of trial might be entirely defeated, and where a person, obnoxious to Congress, might fall an innocent sacrifice to their resentment.

We do not find that the 11th article is asked for by Virginia or any other State; we therefore conceive that the people of Virginia should be consulted with respect to it, even if we did not doubt the propriety of adopting it; but it appears to us highly exceptionable. If it is meant to guard against the extension of the powers of Congress by implication, it is greatly defective, and does by no means comprehend the idea expressed in the 17th article of amendments proposed by Virginia; and as it respects personal rights, might be dangerous, because, should the rights of the people be invaded or called in question, they might be required to shew by the constitution what rights they have *retained*; and such as could not from that instrument be proved to be retained by them, they might be denied to possess. Of this there is ground to be

apprehensive, when Congress are already seen denying certain rights of the people, heretofore deemed clear and unquestionable.

We conceive that the 12th article would come up to the 1st article of the Virginia amendments, were it not for the words "or to the people." It is not declared to be the people of the respective States; but the expression applies to the people generally as citizens of the United States, and leaves it doubtful what powers are reserved to the State Legislatures. Unrestrained by the constitution or these amendments, Congress might, as the supreme rulers of the people, assume those powers which properly belong to the respective States, and thus gradually effect an entire consolidation.

We consider that of the many and important amendments recommended by the Conventions of Virginia and other States, these propositions contain all that Congress are disposed to grant; that all the rest are by them deemed improper, and that these are offered in full satisfaction of the whole: and although the ratification of a part of the amendments that have been prayed for by Virginia, would not absolutely preclude us from urging others, yet we conceive that by the acceptance of particular articles, we are concluded as to the points they relate to. Considering therefore, that they are far short of what the people of Virginia wish, and have asked, and deeming them by no means sufficient to secure the rights of the people, or to render the government safe and desirable, we think our countrymen ought not to be put off with amendments so inadequate.

That being satisfied of the defects and dangerous tendency of these four articles of the proposed amendments, we are constrained to withhold our assent to them; but unwilling for the present to determine on their rejection, we think it our duty to postpone them until the next session of Assembly, in order that the people of Virginia may have an opportunity to consider of them, and judge for themselves; and that the members of the Legislature may be enabled to consult with, and know the sentiments of their constituents on the subject.

John Pride,	Joseph Jones,
M. Anderson,	W. Russell,
John Scasbrook Wills,	Turner Southall,
Stephens Thomas Mason,	John Pope.

We of the minority, do dissent from the foregoing resolution, for the following reasons:

1st. Because there is no rule of the House, permitting the majority on a question to enter their reasons upon the Journals; and because entering reasons, except in cases of protest, is unprecedented.

2d. Because there is a rule of the House, if not positively, yet impliedly, against it in the following words: *Resolved*, that upon the motion of any member, and having a second to his motion, that the yeas and nays be entered, and that any member or members hath or have a right to enter a protest on the Journals on the determination of any act, resolution or question." And the order of the House must be intended to govern the majority, as otherwise they will have it in their power to insert reasons on the Journals on the most trivial questions, and swell them to an enormous and unnecessary size.

3d. Because a protest must be against a question carried, and because the matter of the reasons to be entered upon the Journals is not a disagreement signed by the minority.

4th. Because the reasons of any majority who have carried a vote must have in view one or all of the following things, to wit: either to hold up the minority to public censure, to shew their own superiority, or to excite public disquietudes; for a vote of a majority always being supposed to have right on its side, there is no propriety or necessity for urging reasons after such vote.

5th. Because all the same reasons may not actuate all those who vote in the majority, in which case only a majority of a majority can subscribe the reasons so drawn up, in which case this absurdity might appear on the Journals of the Senate, that is, reasons of the majority signed by a minority.

Levin Joynes, James Taylor,
Alexander St. Clair, Nicholas Cabell.

A message from the House of Delegates by Mr. Henry Lee:

MR. SPEAKER,—The House of Delegates have nominated managers on their behalf, and are now ready to proceed to a free conference with the Senate, on the subject matter of their disagreement to the Senate's amendments to the resolutions of the House of Delegates, ratifying the amendments proposed by Congress to the constitution of the United States. And then he withdrew.

Ordered, That Messrs. Mason, Pope and Anderson, be appointed managers on behalf of this House, in a free conference, to be held in the conference chamber with the managers appointed by the House of Delegates, on the subject matter of their disagreement to the amendments of this House to the resolutions of the House of Delegates, ratifying the amendments proposed by Congress to the constitution of the United States.

The managers then withdrew; and after some time, returned into the House and reported, that they had, according to order, met the managers from the House of Delegates in the conference chamber, and

freely discussed the matters of their disagreement, and reported the reasons offered by the managers from the House of Delegates in support thereof.

On a motion being made, that this House doth adhere to their said amendments,

The previous question was demanded, shall the main question be now put?

And on the question, shall the main question be now put,

It was resolved in the affirmative.—Ayes 7—Noes 6.

The ayes and noes being required by Mr. Cabell, seconded by Mr. Anderson;

Ayes,—Turner Southall, John S. Wills, Matthew Anderson, Stephens Thomson Mason, Joseph Jones, William Russell and John Pope.

Noes,—Alexander St. Clair, John P. Du-Val, James Taylor, Nicholas Cabell, Hugh Nelson and Levin Joynes.

We the subscribers being of the minority, dissent from the vote for adhering to the amendments of the Senate to the resolutions of the House of Delegates, for ratifying the amendments proposed by Congress:

Because the said resolutions were sent to the House of Delegates, and not returned; was under their consideration, and therefore could not be open to that of the Senate.

Hugh Nelson, Levin Joynes,
Nicholas Cabell, James Taylor.

1. Printed: *Senate Journal*, 61–66. Excerpts from the journal were printed in the *New York Packet* and the *New York Daily Advertiser*, 7 January 1790.

2. The reasons were printed in the *Virginia Independent Chronicle*, 13 January 1790, and reprinted in the *New York Daily Advertiser*, 26 January.

House of Delegates Proceedings, Monday, 14 December 1789¹

The House proceeded to reconsider the amendments of the Senate disagreed to by this House and insisted on by the Senate to the resolution ratifying the amendments proposed by Congress to the Constitution of Government of the United States; and the same being read;

Resolved, That this House doth adhere to their disagreement to the said amendments.

Ordered, That Mr. Selden do acquaint the Senate therewith.

1. Printed: *House Journal*, 120.

Senate Proceedings, Monday, 14 December 1789 (excerpts)¹

“We the subscribers, in protesting against the votes of the Senate for amending the resolutions of the House of Delegates, for ratifying the

several articles of amendments propounded by Congress, do not conceive it necessary to answer the several arguments entered upon the Journals by the majority, in support of their vote upon the occasion, nor do we conceive it necessary to urge the whole of our reasons for voting in the negative; resting such as we do not here offer upon the good opinion of the people of Virginia, whom we represent in common with our respective districts, do dissent:

“1st. Because that although the 3d, 8th and 12th of the said amendments come not fully up in form to those proposed by the Convention of this State, in June 1788, we are of opinion they are analogous thereto, and contain important and essential matter, tending further to secure to the States in the Union, and the people their inherent and undoubted political and natural rights, and are calculated the better to secure them against any undue encroachments of the Federal Government.

“2dly. Because that by adopting these amendments, we by no means meant to abandon the prosecution or true constitutional grounds of other amendments, and considered the accepting of such as were at present offered as a measure better calculated to insure others, than either rejecting or postponing the consideration of them.

“3dly. Because the 11th amendment, though not called for by any of the adopting States, we consider as tending to quiet the minds of many, and in no possible instance productive of danger to the liberties of the people, and because the constitution gives a right to Congress to propose, when two-thirds concur, amendments to the State Legislatures for their ratification.

James Taylor, Nicholas Cabell,
Levin Joynes, Hugh Nelson.”

. . . Ordered, That Mr. Mason do acquaint the House of Delegates, that this House hath adhered to their amendments to the resolutions of the House of Delegates, ratifying the articles of amendments proposed by Congress to the constitution of the United States.

1. Printed: *Senate Journal*, 66–67. Under a dateline of “Richmond, 23 December,” the subscribers’ protest was reprinted in the *Pennsylvania Packet*, 1 January 1790, and the *New York Packet* and the *New York Daily Advertiser*, 7 January.

House of Delegates Proceedings, Monday, 14 December 1789¹

A message from the Senate by Mr. Mason:

MR. SPEAKER,—The Senate adhere to their amendments disagreed to by this House, to the resolution ratifying the amendments proposed by Congress to the Constitution of the United States. And then he withdrew.

1. Printed: *House Journal*, 126.

Senator Richard Henry Lee to John Walker, Speaker of the Virginia House of Delegates, New York, 9 August 1790¹

An inclosed certified paper will shew the progress made in the proferred Amendments of last Session to the Constitution of the United States. The Assent of our Commonwealth may, we humbly conceive, secure the establishment of principles, that, by being fixed on the minds of the People, will be conducive hereafter to arrest the progress of power, should it be disposed to exert itself in future times to the injury of public liberty.

1. RC, Executive Communications, Box 14, Enclosure #8, Vi.

House of Delegates Proceedings, Tuesday, 19 October 1790 (excerpts)¹

The Speaker laid before the House a letter from the senators of this State in the Congress of the United States, enclosing . . . a report of a committee of the House of Representatives of the United States, relative to the proceedings of the several States on the subject of the amendments proposed by Congress to the Constitution of the United States; which were read, and ordered to be referred to a committee of the whole House on the state of the Commonwealth.

1. *Journal of the House of Delegates of the Commonwealth of Virginia* [1790] (Richmond, 1828), 5. Hereafter cited as *House Journal 1790*.

House of Delegates Proceedings, Monday, 15 November 1790¹

On a motion made,

Ordered, That the amendments proposed by Congress to the Constitution of the United States, which were laid before the General Assembly at their last session, be referred to the committee of the whole House on the state of the Commonwealth.

1. Printed: *House Journal 1790*, 82.

Governor Beverley Randolph to Speaker of the House of Delegates Richmond, In Council, 17 October 1791 (excerpt)¹

I do myself the Honour to transmit to you, all such Papers and Information, as have been received since the last Session of the General Assembly, and which appear to be proper subjects for the consideration of that honourable Body. . . .

1. MS, Executive Communications, Box 15, Vi.

House of Delegates Proceedings, Tuesday, 18 October 1791¹

The Speaker laid before the House a letter from the Governor, stating various matters for the consideration of the General Assembly, and referring to sundry letters and papers enclosed, which were read, and ordered to lie on the table.

1. *Journal of the House of Delegates of the Commonwealth of Virginia* [1791] (Richmond, 1828), 4. Hereafter cited as *House Journal 1791*.

House of Delegates Proceedings, Monday, 24 October 1791¹

On a motion made, *Ordered*, That the Governor's letter with its enclosures, which lay on the table, be referred to the Committee of the whole House, on the state of the Commonwealth.

The House, according to the order of the day, resolved itself into a committee of the whole House, on the state of the Commonwealth, and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Harrison reported, that the Committee had, according to order, had the state of the Commonwealth under their consideration, and having made some progress therein, had directed him to move the House for leave to sit again.

Resolved, That this House will to-morrow, resolve itself into a Committee of the whole House, on the state of the Commonwealth.

1. Printed: *House Journal 1791*, 12–13.

**House of Delegates Proceedings, Tuesday, 25 October 1791
(excerpts)¹**

The House, according to the order of the day, resolved itself into a Committee of the whole House, on the state of the Commonwealth, and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Harrison reported, that the Committee had, according to order, had the state of the Commonwealth under their consideration, and had come to several resolutions thereupon, which he read in his place, and afterwards delivered in at the clerk's table, where the same were again read, and are as followeth: . . .

3. Resolved, That it is the opinion of this Committee, that the first article of the amendments proposed by Congress to the Constitution of the United States, ought to be ratified by this Commonwealth. . . .

The first, second, and third resolutions being severally read a second time, were, on the questions put thereupon, agreed to by the House. . . .

Ordered, That Mr. Harrison do carry the first, second, and third resolutions to the Senate, and desire their concurrence.

And then the House adjourned till to-morrow morning, 11 o'clock.

1. Printed: *House Journal 1791*, 14.

Senate Proceedings, Tuesday, 1 November 1791 (excerpts)¹

A message from the House of Delegates by Mr. Harrison.

Mr. Speaker,

The House of Delegates . . . have agreed to a resolution respecting the ratification of the amendment proposed by Congress to the first article of the constitution of the United States . . . to which they desire the concurrence of the Senate. And he delivered in the same, and then withdrew. . . .

The first of the said resolutions was read the first time, and ordered to be committed to a committee of the whole House to-morrow.

1. *Journal of the Senate of Virginia* (Richmond, 1791) (Evans 24967), 6. Hereafter cited as *Senate Journal 1791*.

Senate Proceedings, Wednesday, 2 November 1791¹

The order of the day for this House to resolve itself into a committee of the whole House on the resolution of the House of Delegates respecting the ratification of the amendment proposed by Congress to the first article of the constitution of the United States; being read.

Ordered, that the same be put off till to-morrow.

And then the House adjourned 'till to-morrow morning, 11 o'clock.

1. Printed: *Senate Journal 1791*, 8.

House Proceedings, Wednesday, 2 November 1791 (excerpts)¹

A message from the Senate, by Mr. Campbell.

Mr. Speaker—The Senate have passed the bill . . . and “Ratifying the first article of the amendment proposed by Congress, to the Constitution of the United States.” And then he withdrew.

1. Printed: *House Journal 1791*, 31.

General Assembly Resolution, 3 November 1791¹

In the House of Delegates

Tuesday 25th. of October, 1791

Resolved, that the first Article of the Amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

Teste, Charles Hay, C.H.D

November 3d, 1791

Agreed to by the Senate,
H. Brooke C.S.

A Copy, Teste Charles Hay

1. MS, RG 11, Certificates of Ratification, DNA.

Senate Proceedings, Thursday, 3 November 1791¹

Ordered, that the committee of the whole House be discharged from further proceeding on the resolution of the House of Delegates, respecting the ratification of the amendment proposed by Congress to the first article of the constitution of the United States.

The said resolution was read the second time, and on the question put thereupon, agreed to by the House.

Ordered, that Mr. Cabell do acquaint the House of Delegates therewith.

1. Printed: *Senate Journal 1791*, 9.

**Governor Beverley Randolph to President George Washington
Council Chamber, Richmond, 4 November 1791¹**

I do myself the Honour to transmit to you a Resolution of the General Assembly of Virginia ratifying the first Article of the Amendments proposed by Congress to the Constitution of the United States, and have the Honour to be with the highest Respect.

1. RC, RG 11, Certificates of Ratification, DNA. Docketed: "Received Novem[be]r 11, 1791." The file copy is in the Executive Letter Book, Vi.

**Tobias Lear to U.S. Secretary of State Thomas Jefferson
Philadelphia, 11 November 1791 (excerpt)¹**

By the President's command T. Lear has the honor to transmit to the Secretary of State to be deposited in his office, a letter from the Governor of Virginia inclosing a copy of the Resolution of the General Assembly of that Commonwealth ratifying the first article of the Amendments proposed by Congress to the Constitution of the United States. . . .

1. Typescript, RG 11, Certificates of Ratification, DNA. Lear was one of President Washington's secretaries.

**House of Delegates Proceedings, Monday, 5 December 1791
(excerpts)¹**

The House, according to the order of the day, resolved itself into a Committee of the whole House, on the state of the Commonwealth, and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Harrison reported, that the Committee had, according to order, had the state of the commonwealth under their consideration, and had come to several resolutions thereupon, which he read in his place, and afterwards delivered in at the clerk's table, where the same were again twice read, and agreed to by the House, as followeth:

Resolved, That it is the opinion of this Committee, that the 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, and 12th amendments proposed by Congress to the Constitution of the United States, ought to be ratified by this commonwealth. . . .

Ordered, That Mr. Harrison do carry the resolutions to the Senate, and desire their concurrence.

1. Printed: *House Journal 1791*, 103.

Senate Proceedings, Tuesday, 6 December 1791 (excerpts)¹

A Message from the house of Delegates by Mr. Harrison.

Mr. Speaker,

The House of Delegates have agreed to . . . eleven resolutions ratifying the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles of the amendments proposed by Congress to the constitution of the United States; to which they desire the concurrence of the Senate. And he delivered in the same and then withdrew. . . .

The other resolutions ratifying the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles of amendments proposed by Congress to the constitution of the United States; were severally read the first time, and ordered to be committed to a committee of the whole House to-morrow.

1. Printed: *Senate Journal 1791*, 37.

Senate Proceedings, Wednesday, 7 December 1791 (excerpts)¹

The several orders of the day for this House to resolve itself into a committee of the whole House on . . . the several resolutions of the House of Delegates, ratifying the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles of amendments

proposed by Congress to the constitution of the United States; being read.

Ordered, that the same be put off 'till to-morrow.

And then the House adjourned till to-morrow morning 11 o'clock.

1. Printed: *Senate Journal 1791*, 43.

Senate Proceedings, Thursday, 8 December 1791 (excerpts)¹

The several orders of the day for this House to resolve itself into a committee of the whole House on . . . the several resolutions of the house of Delegates, ratifying the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles of amendments proposed by Congress to the constitution of the United States; being read.

Ordered, that the same be put off 'till to-morrow.

And then the House adjourned till to-morrow morning 11 o'clock.

1. Printed: *Senate Journal 1791*, 44–45.

Senate Proceedings, Friday, 9 December 1791 (excerpts)¹

The several orders of the day for this House to resolve itself into a committee of the whole House on . . . the several resolutions of the house of Delegates, ratifying the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles of amendments proposed by Congress to the constitution of the United States; being read.

Ordered, that the same be put off 'till to-morrow.

And then the House adjourned till to-morrow morning 11 o'clock.

1. Printed: *Senate Journal 1791*, 46.

Senate Proceedings, Saturday, 10 December 1791 (excerpts)¹

The several orders of the day for this House to resolve itself into a committee of the whole House on . . . the several resolutions of the House of Delegates, ratifying the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles of amendments proposed by Congress to the constitution of the United States; being read.

Ordered, that the same be put off 'till to-morrow.

1. Printed: *Senate Journal 1791*, 48.

Senate Proceedings, Monday, 12 December 1791 (excerpts)¹

The several orders of the day for this House to resolve itself into a committee of the whole House on . . . the several resolutions of the house of Delegates, ratifying the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles of amendments proposed by Congress to the constitution of the United States; being read.

Ordered, that the same be put off 'till to-morrow.

And then the House adjourned till to-morrow morning 11 o'clock.

1. Printed: *Senate Journal 1791*, 50.

Senate Proceedings, Tuesday, 13 December 1791 (excerpts)¹

The House according to the order of the day resolved itself into a committee of the whole House on the several resolutions of the House of Delegates, ratifying the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles of amendments proposed by Congress to the Constitution of the United States; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Nelson reported, that the committee had, according to order, had the said resolutions under their consideration and made some progress therein, but not having time to go thro' the same, had directed him to move for leave to sit again.

Resolved that this House will to-morrow resolve itself into a committee of the whole House to take the said resolutions under their consideration.

And then the House adjourned till to-morrow morning 11 o'clock.

1. Printed: *Senate Journal 1791*, 55.

Senate Proceedings, Wednesday, 14 December 1791¹

The order of the day for this House to resolve itself into a committee of the whole House on the several resolutions of the House of Delegates, ratifying the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles of amendments proposed by Congress to the constitution of the United States; being read.

Ordered, that the same be put off 'till to-morrow.

And then the House adjourned till to-morrow morning 11 o'clock.

1. Printed: *Senate Journal 1791*, 58.

Senate Proceedings, Thursday, 15 December 1791¹

The House according to the order of the day resolved itself into a committee of the whole House on the several resolutions of the House of Delegates ratifying the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles of amendments proposed by Congress to the constitution of the United States; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Wills reported, that the committee had, according to order, had the said resolutions under their consideration, and had gone thro' the same, and directed him to report them without any amendment.

The said resolutions were read the second time, and on the question thereupon being severally put, agreed to by the House.

Ordered that Mr. Carrington do acquaint the House of Delegates therewith.

1. Printed: *Senate Journal 1791*, 60.

House of Delegates Proceedings, Thursday, 15 December 1791 (excerpts)¹

A message from the Senate, by Mr. Carrington.

Mr. SPEAKER—The Senate have . . . agreed to the resolutions ratifying the 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, and 12th articles of amendments proposed by Congress to the Constitution of the United States. And then he withdrew.

1. Printed: *House Journal 1791*, 130.

General Assembly Resolution on Congress' Proposed Amendments Thursday, 15 December 1791¹

Resolved That the second Article of the Amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

December 15th, 1791

Agreed to by the Senate.

John Pride S.S.

Thomas Matthews Sec. H.D.

1. MS, RG 11, Certificates of Ratification, DNA. Identical resolutions follow for amendments three through twelve.

Senate Proceedings, Monday, 19 December 1791 (excerpts)¹

Mr. Wills reported from the committee appointed to examine the enrolled bills, that the committee had, according to order, examined

several other enrolled bills and resolutions to them referred, and found them to be truly enrolled. . . .

The Speaker then signed the following enrolled bills to wit: . . . Eleven resolutions ratifying the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles of amendments proposed by Congress to the Constitution of the United States: . . .

Ordered, that Mr. Wills do carry the said enrolled bills and resolutions to the House of Delegates and acquaint them that the said bills and resolutions have been examined by the Senate and signed by the Speaker.

1. Printed: *Senate Journal 1791*, 67.

**Governor Henry Lee to President George Washington
Council Chamber, Richmond, 22 December 1791¹**

The General Assembly during their late Session have adopted, on the part of this Commonwealth, all the amendments proposed by Congress to the Constitution of the United States; their ratification whereof I do myself the honor herewith to transmit.

I have the honor to be Sir, with entire respect

1. RC, RG 11, Certificates of Ratification, DNA. Docketed: "recd. Decem[be]r 30th, 1791." The file copy is in the Executive Letter Book, Vi.

**Tobias Lear to U.S. Secretary of State Thomas Jefferson
Philadelphia, 30 December 1791¹**

By the President's command T. Lear has the honor to transmit to the Secretary of State the ratification by the Commonwealth of Virginia, of the Articles of Amendment proposed by Congress to the Constitution of the United States—and a letter which accompanied said ratification from the Governor of Virginia to the President of the United States.

1. Typescript, RG 11, Certificates of Ratification, DNA. Lear was one of President Washington's secretaries.

**U.S. Secretary of State Thomas Jefferson to Governor Henry Lee
Philadelphia, 1 March 1792 (excerpts)¹**

I have the honor to send you herein enclosed . . . the ratification by three-fourths of the Legislatures of the several States, of certain articles in addition to & amendment of the Constitution of the United States proposed by Congress to the said Legislatures. . . .

1. RC, Executive Papers, Box 73, Archives Division, Vi.

Appendix I
The Report of the Constitutional Convention
17 September 1787

The President of the Convention to the President of Congress¹

In Convention, September 17, 1787.

SIR, We have now the honor to submit to the consideration of the United States in Congress assembled, that Constitution which has appeared to us the most adviseable.

The friends of our country have long seen and desired, that the power of making war, peace and treaties, that of levying money and regulating commerce, and the correspondent executive and judicial authorities should be fully and effectually vested in the general government of the Union: but the impropriety of delegating such extensive trust to one body of men is evident—Hence results the necessity of a different organization.

It is obviously impracticable in the fœderal government of these States, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all—Individuals entering into society, must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved; and on the present occasion this difficulty was increased by a difference among the several States as to their situation, extent, habits, and particular interests.

In all our deliberations on this subject we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the Convention to be less rigid on points of inferior magnitude, than might have been otherwise expected; and thus the Constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable.

That it will meet the full and entire approbation of every State is not perhaps to be expected; but each will doubtless consider, that had her interests been alone consulted, the consequences might have been particularly disagreeable or injurious to others; that it is liable to as few

exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish.

With great respect, We have the honor to be SIR, Your Excellency's most Obedient and humble servants.

George Washington, President.

By unanimous Order of the Convention,

HIS EXCELLENCY

The President of Congress.

1. Broadside, PCC, Item 122, Resolve Book of the Office of Foreign Affairs, 1785–89, tipped in between pages 98–99, DNA. The original letter has been lost. The above is transcribed from the official copy of the Convention Report, printed by John McLean and attested by Charles Thomson.

The Constitution of the United States¹

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article. I.

Section. 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section. 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after

the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section. 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section. 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Section. 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section. 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding

any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section. 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section. 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section. 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Section. 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Article. II.

Section. 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the state may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section. 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section. 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section. 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of Treason, Bribery, or other high Crimes and Misdemeanors.

Article III.

Section. 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section. 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public 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;—between a State and Citizens of another State;—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, 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.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section. 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

Article. IV.

Section. 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And

the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section. 2. The Citizens of each State shall be entitled to all privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

Section. 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section. 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

Article. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand

eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of it's equal Suffrage in the Senate.

Article. VI.

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers; both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Article. VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

The Word, "the," being interlined between the seventh and eighth Lines of the first Page, The Word "Thirty" being partly written on an Erasure in the fifteenth Line of the first Page, The Words "is tried" being interlined between the thirty second and thirty third Lines of the first Page and the Word "the" being interlined between the forty third and forty fourth Lines of the second Page.

done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth In Witness whereof We have hereunto subscribed our Names,

Attest William Jackson Secretary

Go: Washington—Presidt.
and deputy from Virginia

Delaware	{	Geo: Read Gunning Bedford junr John Dickinson Richard Bassett Jaco: Broom	New Hampshire	{	John Langdon Nicholas Gilman
Maryland	{	James McHenry Dan of St Thos. Jenifer Danl Carroll	Massachusetts	{	Nathaniel Gorham Rufus King
Virginia	{	John Blair— James Madison Jr.	Connecticut	{	Wm: Saml. Johnson Roger Sherman
North Carolina	{	Wm. Blount Richd. Dobbs Spaight. Hu Williamson	New York		Alexander Hamilton
South Carolina	{	J. Rutledge Charles Cotesworth Pinckney Charles Pinckney Pierce Butler	New Jersey	{	Wil: Livingston David Brearley Wm. Paterson Jona: Dayton
Georgia	{	William Few Abr Baldwin	Pennsylvania	{	B Franklin Thomas Mifflin Robt Morris Geo. Clymer Thos. FitzSimons Jared Ingersoll James Wilson Gouv. Morris

1. Engrossed MS, RG 11, DNA.

Resolutions of the Convention Recommending the Procedures for Ratification and for the Establishment of Government under the Constitution by the Confederation Congress¹

In Convention Monday September 17th. 1787.

Present The States of New Hampshire, Massachusetts, Connecticut, Mr. Hamilton from New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia.

RESOLVED, That the preceeding Constitution be laid before the United States in Congress assembled, and that it is the Opinion of this Convention, that it should afterwards be submitted to a Convention of Delegates, chosen in each State by the People thereof, under the Recommendation of its Legislature, for their Assent and Ratification; and that each Convention assenting to, and ratifying the Same, should give Notice thereof to the United States in Congress assembled.

Resolved, That it is the Opinion of this Convention, that as soon as the Conventions of nine States shall have ratified this Constitution, the United States in Congress assembled should fix a Day on which Electors

should be appointed by the States which shall have ratified the same, and a Day on which the Electors should assemble to vote for the President, and the Time and Place for commencing Proceedings under this Constitution. That after such Publication the Electors should be appointed, and the Senators and Representatives elected: That the Electors should meet on the Day fixed for the Election of the President, and should transmit their Votes certified, signed, sealed and directed, as the Constitution requires, to the Secretary of the United States in Congress assembled, that the Senators and Representatives should convene at the Time and Place assigned; that the Senators should appoint a President of the Senate, for the sole Purpose of receiving, opening and counting the Votes for President; and, that after he shall be chosen, the Congress, together with the President, should, without Delay, proceed to execute this Constitution.

By the Unanimous Order of the Convention

W. Jackson Secretary.

Go: Washington Presidt.

1. Engrossed MS, RG 11, DNA.

Appendix II Facsimiles

**The Twelve Proposed Amendments Sent to the States for
Ratification, 4 March 1789 (11 pages)**

**The Federal Gazette and Philadelphia Daily Advertiser
3 March 1792 (2 pages)**

National Gazette, 12 March 1792 (1 page)

National Gazette, 12 March 1792 (detail)

Congress of the United States :

Begun and held at the City of New-York, on Wednesday
the fourth of March, one thousand seven
hundred and eighty-nine.

THE Conventions of a number of the States having at the time of their adopting the CONSTITUTION expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added : And as extending the ground of public confidence in the government will best ensure the beneficent ends of its institution—

RESOLVED by the SENATE and HOUSE of REPRESENTATIVES of the United States of America in Congress assembled, two thirds of both Houses concurring, That the following articles be proposed to the legislatures of the several states, as amendments to the Constitution of the United States, all or any of which articles, when ratified by three fourths of the said legislatures, to be valid to all intents and purposes, as part of the said Constitution, viz.

ARTICLES in Addition to, and Amendment of, the CONSTITUTION OF THE UNITED STATES OF AMERICA, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

ARTICLE THE FIRST.

AFTER the first enumeration required by the first article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives nor less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred; after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor more than one Representative for every fifty thousand persons.

ARTICLE THE SECOND.

No law varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

ARTICLE THE THIRD.

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 THE FOURTH.

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,

(2)

ARTICLE THE FIFTH.

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 THE SIXTH.

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 THE SEVENTH.

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 offence 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 THE EIGHTH.

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 defence.

ARTICLE THE NINTH.

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 THE TENTH.

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

ARTICLE THE ELEVENTH.

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

ARTICLE THE TWELFTH.

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.

FREDERICK AUGUSTUS MÜHLENBERG,
Speaker of the House of Representatives.

JOHN ADAMS, *Vice-President of the United States,*
and President of the Senate.

J. J. BUCKLEY, *Clerk of the House of Representatives.*
J. M. GIBBS, *Secretary of the Senate.*

(3)

RATIFICATIONS OF THE AMENDMENTS
TO THE
CONSTITUTION
OF THE
UNITED STATES.

BY THE STATE OF *NEW-HAMPSHIRE.*

In the House of Representatives, January 25th, 1790.

UPON reading and maturely considering the proposed Amendments to the federal Constitution,
Voted, To accept the whole of said Amendments, except the second article, which was rejected.

Sent up for concurrence.

THOMAS BARTLETT, *Speaker.*

In Senate, the same day, read and concurred.

J. PEARSON, *Secretary.*

A true copy.

Attest,

JOSEPH PEARSON, *Secretary.*

BY THE STATE OF *NEW-YORK.*

THE PEOPLE of the State of New-York, by the grace of God free and independent.

To all to whom these Presents shall come or may concern—greeting.

KNOW YE, That we having inspected the records remaining in our secretary's office, do find there a certain act of our legislature, in the words and figures following :

An ACT ratifying certain Articles in addition to, and amendment of, the Constitution of the United States of America, proposed by the Congress.

WHEREAS by the fifth article of the Constitution of the United States of America, it is provided, that the Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to the said Constitution, which shall be valid to all intents and purposes as part of the said Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress.

And whereas in the session of the Congress of the United States of America, begun and held at the city of New-York, on Wednesday the fourth of March, one thousand seven hundred and eighty-nine, it was resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following articles be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States ; all or any of which articles, when ratified by three-fourths of the said Legislatures, to be valid to all intents and purposes as part of the said Constitution, viz.

[Here follow verbatim the 1st, 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, and 12th articles of the said Amendments, proposed by Congress to the Legislatures of the several States.]

(4)

And whereas the Legislature of this State have considered the said articles, and do agree to the same, except the second article: Therefore,

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the said articles, except the second, shall be and hereby are ratified by the Legislature of this State.

STATE of NEW-YORK, in Assembly, February 22, 1790.

This bill having been read the third time,
Resolved, That the bill do pass.

By order of the Assembly.

GULIAN VERPLANCK, *Speaker.*

STATE of NEW-YORK, in Senate, February 24, 1790.

This bill having been read a third time,
Resolved, That the bill do pass.

By order of the Senate.

ISAAC ROOSEVELT, *President pro hac vice.*

COUNCIL of REVISION, February 27, 1790.

Resolved, That it does not appear improper to the Council, that this bill, entitled, "An act ratifying certain articles in addition to, and amendment of the Constitution of the United States of America, proposed by the Congress," should become a law of this State.

GEO: CLINTON.

All which we have caused to be exemplified by these presents. In testimony whereof, we have caused these our letters to be made patent, and the great seal of our said state to be hereunto affixed. Witness our trusty and well-beloved George Clinton, esquire, governor of our said state, general and commander in chief of all the militia, and admiral of the navy of the same, at our city of New-York, the twenty-seventh day of March, in the year one thousand seven hundred and ninety, and in the fourteenth year of our independence.

GEO: CLINTON.



Passed the Secretary's Office, the 27th March, 1790.

LEWIS A. SCOTT, *Secretary.*

BY THE STATE OF PENNSYLVANIA.

IN GENERAL ASSEMBLY.

IN pursuance of a resolution of the General Assembly of the State of Pennsylvania, being the legislature thereof; I do hereby certify that the paper hereunto annexed contains an exact and true exemplification of the act whereof it purports to be a copy, by virtue whereof the several amendments therein mentioned, proposed to the Constitution of the United States, were on the part of the Commonwealth of Pennsylvania, agreed to, ratified and confirmed.

GIVEN under my hand, and the seal of the State, this eleventh day of March, in the year of our Lord one thousand seven hundred and ninety.



RICHARD PETERS, *Speaker.*

(5)

An ACT declaring the Assent of this State to certain Amendments to the Constitution of the United States.

Section 1. **W**HEREAS in pursuance of the fifth article of the Constitution of the United States, certain articles of amendment to the said Constitution, have been proposed by the Congress of the United States, for the consideration of the Legislatures of the several States: And whereas this House, being the Legislature of the State of Pennsylvania, having maturely deliberated thereupon, have resolved to adopt and ratify the articles hereafter enumerated, as part of the Constitution of the United States.

Section 2. Be it therefore enacted, and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania, in General Assembly met, and by the authority of the same, That the following amendments to the Constitution of the United States, proposed by the Congress thereof, viz.

[Here follow the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles, which were proposed by Congress to the legislatures of the several States, as amendments to the Constitution of the United States.]

Be, and they are hereby ratified on behalf of this State, to become, when ratified by the legislatures of three fourths of the several States, part of the Constitution of the United States.

Signed by order of the House,

RICHARD PETERS, *Speaker.*

Enacted into a law, at Philadelphia, on Wednesday the tenth day of March, in the year of our Lord one thousand seven hundred and ninety.

PETER ZACHARY LLOYD, *Clerk of the General Assembly.*

I, Matthew Irwin, Esquire, master of the rolls for the State of Pennsylvania, do certify the preceding writing to be a true copy (or exemplification) of a certain law remaining in my office.

Witness my hand and seal of office, the 11th March, 1790.

MATHEW IRWIN, M. R.

BY THE STATE OF DELAWARE.

“THE General Assembly of Delaware having taken into their consideration the above amendments proposed by Congress, to the respective Legislatures of the several States:

“*Resolved,* That the first article be postponed.

“*Resolved,* That the General Assembly do agree to the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles; and we do hereby assent to, ratify and confirm the same, as part of the Constitution of the United States.”

“In Testimony whereof, we have caused the great seal of the State to be hereunto affixed, this twenty-eighth day of January, in the year of our Lord one thousand seven hundred and ninety, and in the fourteenth year of the Independence of the Delaware state.

“*Signed by order of Council,*

“GEO. MITCHELL, *Speaker.*

“*Signed by order of the House of Assembly,*

“JÉHU DAVIS, *Speaker.*”

B

(No. 7)

(6)

BY THE STATE OF MARYLAND.

An ACT to ratify certain Articles in addition to, and amendment of, the Constitution of the United States of America, proposed by Congress to the Legislatures of the several States.

WHEREAS it is provided by the fifth article of the Constitution of the United States of America, that Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to the said Constitution; or on the application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of the said Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other modes of ratification may be proposed by the Congress.

And whereas at a session of the United States, begun and held at the city of New-York, on Wednesday the fourth day of March, in the year of our Lord one thousand seven hundred and eighty-nine, it was resolved by the Senate and House of Representatives of the said United States in Congress assembled, two-thirds of both Houses concurring, that the following articles be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States, all or any of which articles, when ratified by three-fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution, viz.

[Here follow verbatim the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the said amendments, proposed by Congress to the Legislatures of the several States.]

Be it enacted by the General Assembly of Maryland, That the aforesaid articles and each of them be, and they are hereby confirmed and ratified.

By the HOUSE of DELEGATES, December 17th, 1789.

Read and assented to. By order.

W. HARWOOD, *Clerk.*

By the SENATE, December 19th, 1789.

Read and assented to. By order.

H. RIDGELY, *Clerk.*

J. E. HOWARD.

Sec.

I HEREBY certify that the above is a true copy from the original engrossed act, as passed by the Legislature of the state of Maryland.

T. JOHNSON, jun. *Clerk Council.*

BY THE STATE OF SOUTH-CAROLINA.

In the HOUSE of REPRESENTATIVES, January 13th, 1790.

THE House took into consideration the report of the committee, to whom was referred the resolution of the Congress of the United States of the fourth day of March, one thousand seven hundred and eighty-nine, proposing amendments to the Constitution of the United States, viz.

[Here follow verbatim the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the said amendments, proposed by Congress to the Legislatures of the several States.]

(7)

Which being read through, was agreed to:—Whereupon,
Resolved, That this House do adopt the said several articles, and that they become a part of the Constitution of the United States.

Resolved, That the resolutions be sent to the Senate for their concurrence.

By order of the House,

JACOB READ, *Speaker of the House of Representatives.*

In the SENATE, January 19th, 1790.

Resolved, That this House do concur with the House of Representatives in the foregoing resolutions.

By order of the Senate,

D. DE SAUSSURE, *President of the Senate.*

BY THE STATE OF NORTH-CAROLINA.

An ACT to ratify the Amendments to the Constitution of the United States.

WHEREAS the Senate and House of Representatives of the United States of America in Congress assembled, on the fourth day of March, did resolve, two thirds of both Houses concurring, that the following articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all or any of which articles when ratified by three fourths of the said legislatures, to be valid to all intents and purposes as part of the said Constitution.

[Here follow verbatim the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the said amendments, proposed by Congress to the Legislatures of the several States.]

Be it therefore enacted by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same, That the said amendments agreeable to the fifth article of the original Constitution, be held and ratified on the part of this State, as articles in addition to, and amendments of the Constitution of the United States of America.

CHA'S JOHNSON, S. S.

S. CABARRUS, C. H. C.

Read three times and ratified in General Assembly, this 22d day of December, Anno Domini 1789.

STATE of NORTH-CAROLINA.

I, James Glasgow, Secretary of the said State, do hereby certify the foregoing to be a true copy of the original act of the Assembly, filed in the Secretary's office. In testimony whereof, I have hereto set my hand, this tenth day of February, 1790.

J. GLASGOW.

BY THE STATE OF RHODE-ISLAND and PROVIDENCE PLANTATIONS.

In General Assembly, June Session, A. D. 1790.

An ACT for ratifying certain Articles as Amendments to the Constitution of the United States of America, and which were proposed by the Congress of the said States, at their session in March, A. D. 1789, to the Legislatures of the several States, pursuant to the fifth article of the aforesaid Constitution

BE it enacted by this General Assembly, and by the authority thereof it is hereby enacted, That the following articles, proposed by the Congress of the United States of America, at their session in March, A. D. 1789, to the Legisla-

(8)

tures of the several States for ratification, as amendments to the Constitution of the said United States, pursuant to the fifth article of the said Constitution, be, and the same are hereby fully assented to, and ratified on the part of this State, to wit :

[Here follow verbatim the 1st, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, and 12th articles of the said amendments, proposed by Congress to the Legislatures of the several States.]

It is *ordered*, That his excellency the Governor be, and he is hereby requested, to transmit to the President of the said United States, under the seal of this State, a copy of this act, to be communicated to the Senate and House of Representatives of the Congress of the said United States.

A true copy duly examined.

Witness, HENRY WARD, *Secretary*.

BY THE STATE OF NEW-JERSEY.

An act to ratify on the part of this State certain Amendments to the Constitution of the United States.

WHEREAS the Congress of the United States, begun and held at the city of New-York, on Wednesday the fourth day of March, one thousand seven hundred and eighty-nine, resolved, two-thirds of both Houses concurring, That sundry articles be proposed to the Legislatures of the several States as amendments to the Constitution of the United States, all or any of which articles, when ratified by three-fourths of the said Legislatures, to be valid to all intents and purposes as part of the said Constitution.

And whereas the President of the United States, did, in pursuance of a resolve of the Senate and House of Representatives of the United States of America, in Congress assembled, transmit to the Governor of this State the amendments proposed by Congress, which were by him laid before the Legislature for their consideration. Wherefore,

1. *Be it enacted by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That the following articles proposed by Congress, in addition to, and amendment of the constitution of the United States, to wit :

[Here follow, verbatim, the first, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the said amendments, proposed by Congress to the legislatures of the several states.]

Be, and the same are hereby ratified and adopted by the state of New-Jersey.

HOUSE OF ASSEMBLY, *November 19th, 1789.*

This bill having been three times read in this House,

Resolved, That the same do pass.

By order of the House,

JOHN BEATTY, *Speaker.*

COUNCIL-CHAMBER, *November 20, 1789.*

This bill having been three times read in Council,

Resolved, That the same do pass.

By order of the House,

WILL. LIVINGSTON, *President.*

City of Burlington, State of New-Jersey, August 3, A. D. 1790.

THESE are to certify that the annexed law is a true copy taken from the original, inrolled in my office.

BOWEN REED, *Secretary.*

(9)

BY THE STATE OF *PENNSYLVANIA*.

An ACT ratifying on behalf of the State of Pennsylvania, the first amendment proposed by Congress to the Constitution of the United States.

WHEREAS in pursuance of the fifth article of the Constitution of the United States, certain articles in addition to, and amendment of the said Constitution, have been proposed by the Congress of the United States, for the consideration of the legislatures of the several states; and whereas the legislature of the state of Pennsylvania, having maturely deliberated thereupon, have resolved to adopt and ratify the article hereafter mentioned, as part of the Constitution of the United States.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That the following article in addition to, and amendment of the Constitution of the United States of America, proposed by the Congress thereof, viz.

[here article the *first* was inserted verbatim]

be, and it is hereby ratified on behalf of the state of Pennsylvania, to become, when ratified by the legislatures of three fourths of the several states, part of the Constitution of the United States.

WM. BINGHAM, *Speaker of the House of Representatives.*

RICHARD PETERS, *Speaker of the Senate.*

Approved Sept. 21, 1791.

THOMAS MIFFLIN, *Governor of the Commonwealth of Pennsylvania.*

I Mathew Irwin, Esq. Master of Rolls for the state of Pennsylvania, do certify, the preceding writing to be a true copy [or exemplification] of a law enrolled in my office in law book No. 4, page 214, &c. In witness whereof I have hereunto set my hand and seal of office the 12th day of October, A. D. 1791.

(L. S.)

MATHEW IRWIN, *M. R.*

BY THE STATE OF *VIRGINIA*.

General Assembly, begun and held at the capitol in the city of Richmond, on Monday the seventeenth day of October, in the year of our Lord one thousand seven hundred and ninety-one.

October 25th, 1791.

RESOLVED, That the *first* article of the amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

JOHN PRIDE, S. S.

November 3d, 1791,

THO^s: MATHEWS, S. H. D.

Agreed to by the Senate.

Ex^d. Ex^d.

MONDAY, the 5th December, 1791.

RESOLVED, That the *second* article of the amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

JOHN PRIDE, S. S.

December 15th, 1791.

THO^s: MATHEWS, S. H. D.

Agreed to by the Senate.

Ex^d. Ex^d.

(10)

MONDAY, the 5th December, 1791.

RESOLVED, That the *third* article of the amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

December 15th, 1791.

Agreed to by the Senate.

Ex'd. Ex'd.

JOHN PRIDE, S. S.

THO: MATHEWS, S. H. D.

MONDAY, the 5th December, 1791.

RESOLVED, That the *fourth* article of the amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

December 15th, 1791.

Agreed to by the Senate.

Ex'd. Ex'd.

JOHN PRIDE, S. S.

THO: MATHEWS, S. H. D.

MONDAY, the 5th December, 1791.

RESOLVED, That the *fifth* article of the amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

December 15th, 1791.

Agreed to by the Senate.

Ex'd. Ex'd.

JOHN PRIDE, S. S.

THO: MATHEWS, S. H. D.

MONDAY, the 5th December, 1791.

RESOLVED, That the *sixth* article of the amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

December 15th, 1791.

Agreed to by the Senate.

Ex'd. Ex'd.

JOHN PRIDE, S. S.

THO: MATHEWS, S. H. D.

MONDAY, the 5th of December, 1791.

RESOLVED That the *seventh* article of the amendments proposed by Congress to the Constitution of the United States be ratified by this Commonwealth.

December 15th, 1791.

Agreed to by the Senate.

Ex'd. Ex'd.

JOHN PRIDE, S. S.

THO: MATHEWS, S. H. D.

MONDAY, the 5th of December, 1791.

RESOLVED That the *eighth* article of the amendments proposed by Congress to the Constitution of the United States be ratified by this Commonwealth.

December 15th, 1791.

Agreed to by the Senate.

Ex'd. Ex'd.

JOHN PRIDE, S. S.

THO: MATHEWS, S. H. D.

MONDAY, the 5th of December, 1791.

RESOLVED That the *ninth* article of the amendments proposed by Congress to the Constitution of the United States be ratified by this Commonwealth.

December 15th, 1791.

Agreed to by the Senate.

Ex'd. Ex'd.

JOHN PRIDE, S. S.

THO: MATHEWS, S. H. D.

(11)

MONDAY, the 5th of December, 1791.

RESOLVED That the *tenth* article of the amendments proposed by Congress to the Constitution of the United States be ratified by this Commonwealth.

JOHN PRIDE, S. S.
THO: MATHEWS, S. H. D.

December 15th, 1791.
Agreed to by the Senate.
Ex'd. Ex'd.

MONDAY, the 5th of December, 1791.

RESOLVED That the *eleventh* article of the amendments proposed by Congress to the Constitution of the United States be ratified by this Commonwealth.

JOHN PRIDE, S. S.
THO: MATHEWS, S. H. D.

December 15th, 1791.
Agreed to by the Senate.
Ex'd. Ex'd.

MONDAY, the 5th of December, 1791.

RESOLVED That the *twelfth* article of the amendments proposed by Congress to the Constitution of the United States be ratified by this Commonwealth.

JOHN PRIDE, S. S.
THO: MATHEWS, S. H. D.

December 15th, 1791.
Agreed to by the Senate.
Ex'd. Ex'd.

BY THE STATE OF VERMONT.

An Act ratifying certain Articles proposed by Congress as Amendments to the Constitution of the United States.

WHEREAS the Congress of the United States, begun and held at the city of New-York, on Wednesday the fourth of March, one thousand seven hundred and eighty-nine; Resolved, that certain articles, to the number of twelve, be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, which articles, when ratified by three-fourths of the said Legislatures, should be valid to all intents and purposes as part of the said Constitution; Therefore,

It is hereby enacted by the General Assembly of the State of Vermont, That all, and every of said articles so proposed as aforesaid, be, and the same are hereby, ratified and confirmed by the Legislature of this State.

State of Vermont, Secretary of State's Office, &c:
I hereby certify that the within is a true copy of an act, passed by the Legislature of this State, the third day of November, one thousand seven hundred and ninety-one, and deposited in this office according to law. ed
Attest. ROSWELL HOPKINS, Sec'y.

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SATURDAY, 3d MARCH, 1790.

Price 41 Dollars per ann.



By Authority.
Congress of the United States:

Open and held at the city of New-York, on Wednesday the fourth of March, one thousand seven hundred and eighty nine.

The Conventions of a number of the States having at the time of their adopting the Constitution expressed their sense, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And extending the ground of public confidence in the government will best execute the beneficent ends of its institution—

RESOLVED by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all or any of which articles, when ratified by three fourths of the said Legislatures, to be valid in all intents and purposes, as part of the said Constitution, viz.

Article the First.
The Congress of the United States of America, assembled, two thirds of both Houses concurring, do hereby propose to the Legislatures of the several States, for their ratification, the following Article, to wit: That no law varying the compensation for the services of the Senators and Representatives, shall take effect, until an act of Representatives shall have intervened.

Article the Second.
No law varying the compensation for the services of the Senators and Representatives, shall take effect, until an act of Representatives shall have intervened.

Article the Third.
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 the Fourth.
A well regulated Militia, being necessary to the security of free State, the right of the people to keep and bear Arms shall not be infringed.

Article the Fifth.
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 the Sixth.
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 the Seventh.
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 offence 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 the Eighth.
In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of his State and district, wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed with a true and correct copy 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 defence.

Article the Ninth.
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 the Tenth.
Excessive fines shall not be required; nor excessive fines imposed, nor cruel and unusual punishments inflicted.

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

Article the Twelfth.
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.

FREDERICK AUGUSTUS MUEHLBERG,
Speaker of the House of Representatives.
JOHN ADAMS, Vice-President of the United States, and President of the Senate.
JOHN BAXTER, Clerk of the House of Representatives.
SAM. A. OTIS, Secretary of the Senate.

RATIFICATIONS OF THE AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES.
By the STATE of NEW-HAMPSHIRE.
In the House of Representatives, January 25th, 1790.
Read and maturely considering the proposed amendments to the Constitution of the United States, To accept the whole of said amendments, except the second article, which was rejected.

Sent up for concurrence.
THOMAS BARTLETT, Speaker, In Senate, the same day, read and concurred.
J. PEARSON, Secretary.
A true copy.
Attest,
JOSEPH PEARSON, Secretary.

By the STATE of NEW-YORK.
The People of the State of New-York, by the grace of God free and independent.
To all to whom these presents shall come or may concern—greeting.

KNOW YE, That we having inspected the records remaining in our Secretary's office, do find there a certain act of the Legislature, in the words and figures following:—

An ACT ratifying certain articles in addition to, and amendment of, the Constitution of the United States of America, proposed by the Congress.

Whereas by the fifth article of the Constitution of the United States of America, it is provided, that the Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to the said Constitution, which shall be valid to all intents and purposes as part of the said Constitution, when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress.

And whereas in the session of the Congress of the United States of America, begun and held at the city of New-York, on Wednesday the fourth of March, one thousand seven hundred and eighty-nine, it was resolved, that the following articles, when ratified by the Legislatures of the United States, all or any of which articles, when ratified by three-fourths of the said Legislatures, to be valid to all intents and purposes as part of the said Constitution, viz.

Here follow verbatim the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the said Amendments, proposed by Congress to the Legislatures of the several States:—

And whereas the Legislature of this State have considered the said articles, and do agree to the same, except the second article: Therefore

BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby declared by the authority of the same, That the said articles, except the second, shall be and hereby are ratified by the Legislature of this State.
State of New-York, in Assembly, February 22, 1790.
This bill having been read the third time,
Resolved, That the bill do pass.
By order of the Assembly,
GULIAN VERPLANCK, Speaker.
State of New-York, in Senate, Feb. 23, 1790.
This bill having been read a third time,
Resolved, That the bill do pass.

By order of the Senate.
ISAAC ROOSEVELT, President pro hac vice.
Council of Revision, Feb. 27, 1790.

Resolved, That it does not appear improper to the Council, that this bill, entitled, "An Act ratifying certain articles in addition to, and amendment of the Constitution of the United States of America, proposed by the Congress," should become a law of this State.

GEO. CLINTON,
All which we have caused to be exemplified by these presents. In testimony whereof, we have caused these our letters to be made patent, and the great seal of our said State, to be hereunto affixed. Witness our trusty and well-beloved George Clinton, esquire, Governor of our said State, general and commander in chief of all the militia, and admiral of the navy of the same, at our city of New-York, the twenty-seventh day of March, in the year one thousand seven hundred and ninety, and in the fourteenth year of our independence.

GEO. CLINTON,
Passed the Secretary's Office, the 27th March, 1790.
LEWIS A. SCOTT, Secretary.

By the STATE of PENNSYLVANIA.
In General Assembly.
IN pursuance of a resolution of the General Assembly of the State of Pennsylvania, being the legislature thereof, I do hereby certify that the papers hereto annexed contains an exact and true exemplification of the act whereof it purports to be a copy, by virtue whereof the several amendments therein mentioned, proposed to the Constitution of the United States, were on the part of the Commonwealth of Pennsylvania, agreed to, ratified and confirmed.

Given under my hand, and the seal of the State, this eleventh day of March, in the year of our Lord one thousand seven hundred and ninety.
(Seal.) **RICHAHD PETERS,** Speaker.

An ACT declaring the Assent of this State to certain Amendments to the Constitution of the United States, Section 1. WHEREAS in pursuance of the fifth article of the Constitution of the United States, certain articles of amendment to the said Constitution, have been proposed by the Congress of the United States; And whereas this House, being the Legislature of the State of Pennsylvania, having maturely deliberated thereupon, have resolved to adopt and ratify the articles hereafter enumerated, as part of the Constitution of the United States.

Section 2. Be it therefore enacted, and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania, in General Assembly met, and by the authority of the same, That the following amendments to the Constitution of the United States, proposed by the Congress thereof, viz.

[Here follow the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles, which were proposed by Congress to the Constitution of the several States, as amendments to the Constitution of the United States.]

Be, and they are hereby ratified on behalf of this State, become when ratified by the Legislatures of three-fourths of the several States, part of the Constitution of the United States.

Signed by order of the House,
RICHARD PETERS, Speaker.
Enacted into a law, at Philadelphia, on Wednesday the tenth day of March, in the year of our Lord one thousand seven hundred and ninety.

PETER ZACHARY LLOYD,
Clerk of the General Assembly.
I, Matthew Irwin, Esquire, master of the rolls for the State of Pennsylvania, do certify the preceding writing to be a true copy (an exemplification) of a certain law remaining in my office.

Witness my hand and seal of office, the 11th March, 1790.
MATTHEW IRWIN, M. R.

By the STATE of DELAWARE.
The General Assembly of Delaware having taken into their consideration the above amendments proposed by Congress, to the respective Legislatures of the several States:—

Resolved, That the first article be postponed.
Resolved, That the General Assembly do agree to the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles; and we do hereby assent to, ratify and confirm the same, as part of the Constitution of the United States.

"In Testimony whereof, we have caused the great seal of the State to be hereunto affixed; this twenty-eighth day of January, in the year of our Lord one thousand seven hundred and ninety, and in the fourteenth year of the Independence of the said State of Delaware."
Signed by order of Council.
(Seal.) **GEO. MICHIELL,** Speaker.
Signed by order of the House of Assembly,
JHU DAVIS, Speaker.

(Continued from the first page.)

By the STATE OF MARYLAND. An Act to ratify certain articles in addition to, and amendment of, the Constitution of the United States of America, proposed by Congress to the Legislatures of the several States.

WHEREAS it is provided by the fifth article of the constitution of the United States of America, that it is the duty of the Legislatures of the several States, when necessary, to propose amendments to the said constitution; and on the application of three fourths of the Legislatures of the several States, that a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of the said constitution, when ratified by three fourths of the several States, or by conventions in three fourths thereof, as the one or the other modes of ratification may be proposed by the Congress.

And whereas at a session of the United States, begun and held at the city of New York, on Wednesday the fourth day of March, in the year of our Lord one thousand seven hundred and eighty nine, it was resolved by the Senate and House of Representatives of the United States in Congress assembled, two thirds of both Houses concurring, that the following articles be proposed to the Legislatures of the several States, as amendments to the constitution of the United States, all or any of which articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said constitution, viz. [Here follow verbatim the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the said amendments, proposed by Congress to the Legislatures of the several States.]

Be it enacted by the general assembly of Maryland, That the aforesaid articles and each of them, be and they are hereby confirmed and ratified.

By the House of Delegates, December 17th, 1790. Read and assented to. By order. W. HARWOOD, Clerk.

By the Senate, December 19th, 1789. Read and assented to. By order. H. HIGGINS, Clerk.

J. E. HOWARD, (Seal) I HEREBY certify that a full and true copy from the original enrolled 3d, as passed by the Legislature of the State of Maryland.

T. JOHNSON, jun. Clerk Council.

By the STATE OF SOUTH CAROLINA. In the House of Representatives, January 13th, 1790. THE House took into consideration the report of the committee, to whom was referred the resolution of the Congress of the United States of the fourth day of March, one thousand seven hundred and eighty nine, proposing amendments to the constitution of the United States, viz. [Here follow verbatim the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the said amendments, proposed by Congress to the Legislatures of the several States.]

Which being read through, was agreed to—Whereupon Resolved, That this House do adopt the said several articles, and that they become a part of the constitution of the United States.

Resolved, That the resolutions be sent to the Senate for their concurrence.

By order of the House, JACOB ORR, speaker of the House of Representatives.

In the Senate, January 19th, 1790. Resolved, That this House do concur with the House of Representatives in the foregoing resolutions.

By order of the Senate, D. DE SAUSSURE, President of the Senate.

By the STATE OF NORTH CAROLINA. An Act to ratify the amendments to the constitution of the United States.

WHEREAS the Senate and House of Representatives of the United States of America in Congress assembled, on the fourth day of March, did resolve, two thirds of both Houses concurring, that the following articles be proposed to the Legislatures of the several States, as amendments to the constitution of the United States, all or any of which articles when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes as part of the said constitution. [Here follow verbatim the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the said amendments proposed by Congress to the Legislatures of the several States.]

Be it therefore enacted by the general assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that the said amendments agree to the fifth article of the original constitution, be held and ratified on the part of this State, as articles in addition to, and amendments of the constitution of the United States of America.

CRAIG JOHNSON, S. S. & CHARLES C. H. C. I read three times and ratified in General Assembly, this 22d day of December, Anno Domini 1789.

State of North Carolina. I, James Glasgow, Secretary of the said State, do hereby certify the foregoing to be a true copy of the original act of the Assembly, filed in the Secretary's office, in testimony whereof, I have hereunto set my hand, this tenth day of February, 1790.

J. GLASGOW.

By the STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS. In an General Assembly, June session, A. D. 1790.

An Act to ratify certain articles in addition to, and amendment of the Constitution of the United States of America, and which were proposed by the Congress of the said States, at their session at New York, on the 4th day of the month of March, pursuant to the fifth article of the said constitution.

Be it enacted by the General Assembly of the said State, that the following articles, proposed by the Congress of the United States of America, be and they are hereby confirmed and ratified as amendments to the said constitution, viz. [Here follow verbatim the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the said amendments, proposed by Congress to the Legislatures of the several States.]

Be it therefore enacted by the general assembly of the State of Rhode Island and Providence Plantations, that the said amendments agree to the fifth article of the original constitution, be held and ratified on the part of this State, as articles in addition to, and amendments of the constitution of the United States of America.

By order of the House, I, James Glasgow, Secretary of the said State, do hereby certify the foregoing to be a true copy of the original act of the Assembly, filed in the Secretary's office, in testimony whereof, I have hereunto set my hand, this tenth day of February, 1790.

J. GLASGOW.

By the STATE OF VERMONT. An Act to ratify certain articles in addition to, and amendment of the Constitution of the United States of America, and which were proposed by the Congress of the said States, at their session at New York, on the 4th day of the month of March, pursuant to the fifth article of the said constitution.

Be it enacted by the General Assembly of the said State, that the following articles, proposed by the Congress of the United States of America, be and they are hereby confirmed and ratified as amendments to the said constitution, viz. [Here follow verbatim the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the said amendments, proposed by Congress to the Legislatures of the several States.]

Be it therefore enacted by the general assembly of the State of Vermont, that the said amendments agree to the fifth article of the original constitution, be held and ratified on the part of this State, as articles in addition to, and amendments of the constitution of the United States of America.

By order of the House, I, James Glasgow, Secretary of the said State, do hereby certify the foregoing to be a true copy of the original act of the Assembly, filed in the Secretary's office, in testimony whereof, I have hereunto set my hand, this tenth day of February, 1790.

J. GLASGOW.

Be it enacted by this General Assembly, and by the authority thereof, that the following articles, proposed by the Congress of the United States of America, at their session in March, A. D. 1789, be and they are hereby confirmed and ratified as amendments to the constitution of the said United States, pursuant to the fifth article of the said constitution, be, and the same are hereby fully adopted, and ratified on the part of this State, to wit: [Here follow verbatim the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the said amendments, proposed by Congress to the Legislatures of the several States.]

It is ordered, That his excellency the Governor, be, and he is hereby requested, to transmit to the President of the said United States, under the seal of this State, a copy of this act, to be communicated to the Senate and House of Representatives of the Congress of the said United States. A true copy duly examined.

Witness, HENRY WALKER, Secretary.

By the STATE OF NEW JERSEY. An Act to ratify on the part of this State certain amendments to the constitution of the United States.

WHEREAS the Congress of the United States, begun and held at the city of New York, on Wednesday the fourth day of March, one thousand seven hundred and eighty nine, resolved, two thirds both Houses concurring, that the following articles be proposed to the Legislatures of the several States as amendments to the constitution of the United States, all or any of which articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes as part of the said constitution. [Here follow verbatim the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the said amendments, proposed by Congress to the Legislatures of the several States.]

Be it therefore enacted by the general assembly of the State of New Jersey, that the said amendments agree to the fifth article of the original constitution, be held and ratified on the part of this State, as articles in addition to, and amendments of the constitution of the United States of America.

By order of the House, I, James Glasgow, Secretary of the said State, do hereby certify the foregoing to be a true copy of the original act of the Assembly, filed in the Secretary's office, in testimony whereof, I have hereunto set my hand, this tenth day of February, 1790.

J. GLASGOW.

By the STATE OF PENNSYLVANIA. An Act ratifying on behalf of the State of Pennsylvania, the first amendment proposed by Congress to the Constitution of the United States.

WHEREAS in pursuance of the fifth article of the constitution of the United States, certain articles, in addition to, and amendment of the said constitution, have been proposed by the Congress of the United States, for the consideration of the Legislatures of the several States; and whereas the Legislature of the State of Pennsylvania, having maturely deliberated thereupon, have resolved to adopt and ratify the article hereunto mentioned, as part of the constitution of the United States.

Be it therefore enacted by the general assembly of the State of Pennsylvania, in general assembly met, and it is hereby enacted by the authority of the same, that the following article, proposed by the Congress of the United States, be and it is hereby ratified on behalf of the State of Pennsylvania, to become, when ratified by the Legislatures of three fourths of the several States, part of the constitution of the United States.

Approved, Speaker of the House of Representatives. Wm. BINGHAM, Speaker of the House of Representatives. Resolved, That the second article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

Monday, the 5th of December, 1791. Resolved, That the eighth article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

Monday, the 5th of December, 1791. Resolved, That the ninth article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

Monday, the 5th of December, 1791. Resolved, That the tenth article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

Monday, the 5th of December, 1791. Resolved, That the eleventh article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

Monday, the 5th of December, 1791. Resolved, That the twelfth article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

By the STATE OF VERMONT. An Act ratifying certain articles proposed by Congress to the constitution of the United States.

WHEREAS the Congress of the United States, begun and held at the city of New York, on Wednesday the fourth day of March, one thousand seven hundred and eighty nine, resolved, that certain articles, in addition to, and amendment of the said constitution, be proposed to the Legislatures of the several States, as amendments to the constitution of the United States, all or any of which articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes as part of the said constitution; therefore, Be it enacted by the general assembly of the said State of Vermont, that the said amendments agree to the fifth article of the original constitution, be held and ratified on the part of this State, as articles in addition to, and amendments of the constitution of the United States of America.

By order of the House, I, James Glasgow, Secretary of the said State, do hereby certify the foregoing to be a true copy of the original act of the Assembly, filed in the Secretary's office, in testimony whereof, I have hereunto set my hand, this tenth day of February, 1790.

J. GLASGOW.

By the STATE OF VIRGINIA. General Assembly, begun and held at the capital in the city of Richmond, on Monday the seventeenth day of October, in the year of our Lord one thousand seven hundred and ninety one.

Resolved, That the first article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth. November 3d, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

Monday, the 5th of December, 1791. Resolved, That the second article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

proposed by Congress to the constitution of the United States, be ratified by this commonwealth. December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

Monday, the 5th of December, 1791. Resolved, That the third article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

Monday, the 5th of December, 1791. Resolved, That the fourth article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

Monday, the 5th of December, 1791. Resolved, That the fifth article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

Monday, the 5th of December, 1791. Resolved, That the sixth article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

Monday, the 5th of December, 1791. Resolved, That the seventh article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

Monday, the 5th of December, 1791. Resolved, That the eighth article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

Monday, the 5th of December, 1791. Resolved, That the ninth article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

Monday, the 5th of December, 1791. Resolved, That the tenth article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

Monday, the 5th of December, 1791. Resolved, That the eleventh article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

Monday, the 5th of December, 1791. Resolved, That the twelfth article of the amendments proposed by Congress to the constitution of the United States, be ratified by this commonwealth.

December 15th, 1791. John Pride, s. s. Thos. Mathews, s. s. &c.

Agreed to by the Senate. Ex'd. Ex'd.

By the STATE OF VERMONT. An Act ratifying certain articles proposed by Congress to the constitution of the United States.

WHEREAS the Congress of the United States, begun and held at the city of New York, on Wednesday the fourth day of March, one thousand seven hundred and eighty nine, resolved, that certain articles, in addition to, and amendment of the said constitution, be proposed to the Legislatures of the several States, as amendments to the constitution of the United States, all or any of which articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes as part of the said constitution; therefore, Be it enacted by the general assembly of the said State of Vermont, that the said amendments agree to the fifth article of the original constitution, be held and ratified on the part of this State, as articles in addition to, and amendments of the constitution of the United States of America.

By order of the House, I, James Glasgow, Secretary of the said State, do hereby certify the foregoing to be a true copy of the original act of the Assembly, filed in the Secretary's office, in testimony whereof, I have hereunto set my hand, this tenth day of February, 1790.

J. GLASGOW.

By the STATE OF VERMONT. An Act ratifying certain articles proposed by Congress to the constitution of the United States.

WHEREAS the Congress of the United States, begun and held at the city of New York, on Wednesday the fourth day of March, one thousand seven hundred and eighty nine, resolved, that certain articles, in addition to, and amendment of the said constitution, be proposed to the Legislatures of the several States, as amendments to the constitution of the United States, all or any of which articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes as part of the said constitution; therefore, Be it enacted by the general assembly of the said State of Vermont, that the said amendments agree to the fifth article of the original constitution, be held and ratified on the part of this State, as articles in addition to, and amendments of the constitution of the United States of America.

By order of the House, I, James Glasgow, Secretary of the said State, do hereby certify the foregoing to be a true copy of the original act of the Assembly, filed in the Secretary's office, in testimony whereof, I have hereunto set my hand, this tenth day of February, 1790.

J. GLASGOW.

By the STATE OF VERMONT. An Act ratifying certain articles proposed by Congress to the constitution of the United States.

WHEREAS the Congress of the United States, begun and held at the city of New York, on Wednesday the fourth day of March, one thousand seven hundred and eighty nine, resolved, that certain articles, in addition to, and amendment of the said constitution, be proposed to the Legislatures of the several States, as amendments to the constitution of the United States, all or any of which articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes as part of the said constitution; therefore, Be it enacted by the general assembly of the said State of Vermont, that the said amendments agree to the fifth article of the original constitution, be held and ratified on the part of this State, as articles in addition to, and amendments of the constitution of the United States of America.

By order of the House, I, James Glasgow, Secretary of the said State, do hereby certify the foregoing to be a true copy of the original act of the Assembly, filed in the Secretary's office, in testimony whereof, I have hereunto set my hand, this tenth day of February, 1790.

J. GLASGOW.

National Gazette.

By P. F. RENEAU: Published MONDAYS and THURSDAYS, at THREE DOLLARS per annum.

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MONDAY, MARCH 12, 1792.

NUMB. 39.

Articles of AMENDMENT to the Constitution of the United States, proposed by Congress to the Legislatures of the several States, pursuant to the Fifth Article of the Constitution, and which, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution.

By what States and when Ratified.

ARTICLE I.
AFTER the first enumeration required by the first article of the constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be regulated by Congress, that there shall be not less than one hundred Representatives nor less than one Representative for every thirty thousand persons, until the number of Representatives shall amount to two hundred, after which the proportion shall be regulated by Congress, that there shall not be less than two hundred Representatives, nor more than one Representative for every fifty thousand persons.

ARTICLE II.
No law varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

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

ARTICLE VI.
The right of the people to secure in their persons, houses, papers, and effects, a full and impartial search, 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 VII.
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 offence 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 VIII.
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 defence.

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

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

ARTICLE XII.
The powers not delegated to the United States by the States, nor prohibited to the States respectively, or to the people.

AMENDMENT S. RATIFIED.
N. Hampshire 1 3 4 5 6 7 8 9 10 11 12
Massachusetts 1 3 4 5 6 7 8 9 10 11 12
Vermont 1 3 4 5 6 7 8 9 10 11 12
Rhode-Island 1 3 4 5 6 7 8 9 10 11 12
Connecticut 1 3 4 5 6 7 8 9 10 11 12
New-York 1 3 4 5 6 7 8 9 10 11 12
New-Jersey 1 3 4 5 6 7 8 9 10 11 12
Pennsylvania 1 3 4 5 6 7 8 9 10 11 12
Delaware 1 3 4 5 6 7 8 9 10 11 12
Virginia 1 3 4 5 6 7 8 9 10 11 12
N. Carolina 1 3 4 5 6 7 8 9 10 11 12
Georgia 1 3 4 5 6 7 8 9 10 11 12

N. Hampshire, Jan. 25, 1790
Vermont, Nov. 3, 1791
Rhode-Island, June, 1790
N. York, March 27, 1790
N. Jersey, August 3, 1790
Pennsylvania, Mar. 10, 1790
Delaware, Jan. 28, 1790
Maryland, Dec. 19, 1789
Virginia, Dec. 15, 1791
N. Carolina, Dec. 21, 1789
S. Carolina, Jan. 19, 1790

N. Hampshire, Jan. 25, 1790
Vermont, Nov. 3, 1791
Rhode-Island, June, 1790
N. York, March 27, 1790
N. Jersey, August 3, 1790
Pennsylvania, March 10, 1790
Delaware, Jan. 28, 1790
Virginia, Dec. 15, 1791
N. Carolina, Dec. 21, 1789
S. Carolina, Jan. 19, 1790

N. Hampshire, Jan. 25, 1790
Vermont, Nov. 3, 1791
Rhode-Island, June, 1790
N. York, March 27, 1790
N. Jersey, August 3, 1790
Pennsylvania, Mar. 10, 1790
Delaware, Jan. 28, 1790
Maryland, Dec. 19, 1789
Virginia, Dec. 15, 1791
N. Carolina, Dec. 21, 1789
S. Carolina, Jan. 19, 1790

N. Hampshire, Jan. 25, 1790
Vermont, Nov. 3, 1791
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N. York, March 27, 1790
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Maryland, Dec. 19, 1789
Virginia, Dec. 15, 1791
N. Carolina, Dec. 21, 1789
S. Carolina, Jan. 19, 1790

AUTHENTIC.
FEDERAL CONGRESS
OF THE
UNITED STATES.
At the first Session begun and held at the city of Philadelphia, in the State of Pennsylvania, on Monday the twenty-fourth day of September, one thousand seven hundred and ninety-two.

An ACT relative to the Election of a President and Vice-President of the United States, and declaring the Officer who shall act as President in case of Vacancies in the Office of said President and Vice-President.

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That except in case of an election of a President & Vice-President of the United States, prior to the ordinary period as hereinafter specified, electors shall be appointed in each State for the election of a President & Vice-President of the United States, within thirty-four days preceding the first Wednesday in December, one thousand seven hundred and ninety-two, and within thirty-four days preceding the first Wednesday in December in every fourth year succeeding the last election, which electors shall be equal to the number of Senators and Representatives, to which the several States may by law be entitled at the time, when the President and Vice-President, thus to be chosen, should come into office: Provided always, That where no appointment of electors shall have been made by any enumeration, at the time of choosing electors, then the number of electors shall be according to the existing apportionment of Senators and Representatives.

And be it further enacted, That the electors shall meet and give their votes on the said first Wednesday in December, at such place in each State as shall be directed, by the Legislature thereof; and the electors in each State shall make and sign three certificates of all the votes by them given, and shall seal up the same certifying on each a list of the votes of each State for President and Vice-President is contained therein and shall by writing under their hands, or under the hands of a majority of them, appoint a person to take charge of and deliver to the President of the Senate, at the seat of government, the said certificates, and shall forthwith cause the other of the said certificates, to be delivered to the judge of the said district in which the said electors shall assemble.

And be it further enacted, That the executive authority of each State shall cause three lists of the names of the electors of such State to be made and certified and to be delivered to the electors on or before the said first Wednesday in December and the said electors shall annex one of the said lists to each of the lists of their votes.

And be it further enacted, That if a list of votes, from any State shall not have been received on the first of January on the said first Wednesday in January that then the Secretary of State shall cause a special messenger to be sent to judge in whose county such list shall have been lodged, who shall forthwith transmit the same to the seat of government.

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