

CONSOURCE



The Constitutional Sources Project

THE CONSTITUTION IN ACTION: THE EARLY REPUBLIC

Origin of the Bill of Rights: State Amendments

TIME AND GRADE LEVEL

One 45 or 50 minute class period in a **Grade 9-12** US history, civics, or government course.

PURPOSE AND CRITICAL ENGAGEMENT QUESTIONS

History is the chronicle of choices made by actors/agents/protagonists in specific contexts. This lesson places students at a critical moment in our nation's founding, when Americans considered whether to ratify the Constitution. Should they agree to the document as-is, without making any changes? Students will examine and evaluate numerous amendments proposed at state ratifying conventions. Which of these protected rights or affirmed basic principles? Which called for structural changes in the new government? Only by looking at the full sweep of amendments offered by the states can students understand the historical context of the Bill of Rights, which would include some of the proposed changes but not others.

LESSON OBJECTIVES

*Students will be able to cite numerous concerns that state ratifying conventions addressed by proposing amendments to the Constitution.

*Students will be able to distinguish between those that affirmed protected rights (including the right of political representation) versus those that changed the rules in the operations of the new federal government.

*Students will be able to explicate the two methods for introducing amendments in Article V of the Constitution.

*Students will be able to explain James Madison's reasons for presenting his choice of amendments to the First Federal Congress.

*Students will be able to explain why Madison selected the amendments he did, protections that would evolve into the Bill of Rights.

OVERVIEW OF THE LESSON

Prefatory homework:

- Handout A. Bill of Rights: Background
 - Handout B. Amendments Offered by the States: Background
- Each student reads and responds to one of the following:
- Handout C. Amendments Proposed by the Massachusetts, New Hampshire, and South Carolina Ratifying Conventions
 - Handout D. Amendments Proposed by Virginia's Ratifying Convention
 - Handout E. Amendments Proposed by New York's Ratifying Convention

In class:

1. Homework review and class discussion of amendments proposed by state ratifying conventions: 15-20 minutes
2. Students consider amendments in discussion and debate ("D and D") groups: 15-20 minutes
3. Alternate amendment processes under Article V of the Constitution: 5 minutes
4. Presentation of the historical outcome and assignment of prefatory homework for the lesson on Madison's proposed amendments: 5-10 minutes

Summary homework / Extended activities

MATERIALS

Homework and class handouts

- A. Bill of Rights: Background
- B. Amendments Offered by the States: Background
- C. Amendments Proposed by the Massachusetts, South Carolina, and New Hampshire Ratifying Conventions
- D. Amendments Proposed by Virginia's Ratifying Convention
- E. Amendments Proposed by New York's Ratifying Convention
- F. Amendment Process: Article V of the United States Constitution
- G. Historical Outcome: Why Madison Introduced Amendments to the First Federal Congress
- H. Vocabulary List

PREFATORY HOMEWORK

Students read:

Handout A, “**Bill of Rights: Background**”

Handout B, “**Amendments Offered by the States: Background**”

Distribute Handout C, “**Amendments Proposed by the Massachusetts, South Carolina, and New Hampshire Ratifying Conventions,**” to one-third of the class. Distribute Handout D, “**Amendments Proposed by Virginia’s Ratifying Convention,**” to another third of the class.

Distribute Handout E, “**Amendments Proposed by New York’s Ratifying Convention,**” to the final third of the class.

Instructions are at the end of Handout B.

CLASS ACTIVITY: 45-50 MINUTES

1. Homework review and class discussion of amendments proposed by state ratifying convention: 15-20 minutes

Students will arrive with their marked-up state amendments—“Rule” or “Right” in the left margin; key word or phrase in the right margin; and circle around the provision that states what is to be done with the amendments. Check to see that students have marked their sheets, but allow students to keep these sheets for discussion.

Start by asking for examples of rights or principles. When a student offers an example, ask what key word or phrase he or she marked for that amendment. Then ask all students if they can find something similar in the list for their respective states. List these on the blackboard or poster board.

Repeat this process for examples of rules. The point here is to demonstrate:

- a. the broad range of amendments, including both sweeping protections for rights and precise changes in, or additions to, the rules of operation
- b. specific concerns that were shared by people in several states

Allow brief discussion about items that appear on several lists, but don’t get too bogged down on any one of them. Tell students they will soon have the chance to weigh in on these amendments in the discussion and debate (“D & D”) groups.

In the list of repeated amendments, be sure to include the one about taxes—this, as students will learn at the end of the lesson, was the one that most concerned people like Madison and Washington. Here is an outline for a guided discussion on this.

One issue was on everybody’s mind: taxation. Although Federalists and Anti-Federalists agreed that the Articles of Confederation had failed in large measure because of Congress’s total dependency on state governments to raise any money, Anti-Federalists did not want Congress to be in the tax-collecting business any more than it had to be. People would feel oppressed by two sets of tax collectors, they argued. Consequently, all states proposing

amendments suggested that Congress should be empowered to pass direct taxes only as a last resort.

Ask students who are considering New York's proposed amendments to find the long one about taxes and read it aloud: "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."

Query: *What does this mean?*

Response: Congress still would be able to levy direct taxes, but only after impost and excise duties had proved insufficient. After that, Congress would have to try requisitioning the states. State legislatures would tax their citizens in whatever manner they saw fit. Only if imposts and excises proved insufficient *and* states did not come through with some or all of their requisitions could Congress "assess and levy" direct taxes to make up the difference. Although Congress would eventually get its money, months or years might transpire. This worried Federalists, who argued that such a cumbersome procedure for raising money would undermine the government's credit and credibility.

Ask students to find versions of this amendment proposed by other states. This will demonstrate the broad concern with taxes. It will also set up the conclusion to this lesson: People like Madison and Washington were concerned that weakening Congress's power to tax would defeat the entire project.

2. Students consider amendments in discussion and debate ("D AND D") groups: 15-20 minutes

Divide the class into groups. Each group should include students who received the New York proposals, Virginia proposals, and Massachusetts / New Hampshire / South Carolina proposals. Instruct students: Discuss any of these proposed amendments in your groups. As you do, compile your own personal list to present to Congress or to a new convention. On this list, what are your top priorities? Which deal with rights and which are structural? (Consult your homework for distinguishing these two categories.)

3. Alternate amendment processes under Article V of the Constitution: 5 minutes

Distribute Handout F: "**Amendment Process: Article V of the United States Constitution.**"

Query the class:

There are two different ways to initiate the amendment process. What are they?

Response: Congress can propose an amendment, but it requires a two-thirds super-majority in both the House and the Senate. Alternately, two-thirds of the state legislatures can ask Congress to call a convention to consider amendments, which Congress must then do. (Note the wording in Article V: “*shall* call a convention...”)

*If you wanted to **institute structural changes**, like modifying the method of federal taxation, is that more likely to happen in Congress, dominated by pro-Constitution Federalists, or by calling a new convention?*

Response: A new convention. Federalists in Congress will likely resist changes to the Constitution, which they had just managed to get ratified.

*If you were a supporter of the Constitution and wanted to **avoid structural changes**, which route for introducing amendments would you prefer?*

Response: Congress. A new convention might unravel many of the features of the Constitution.

And that is precisely what James Madison did. Transition to:

4. Presentation of the historical outcome and assignment of prefatory homework for the lesson on Madison’s proposed amendments: 5-10 minutes

Teacher presents the material in Handout G: “Historical Outcome: Why Madison Introduced Amendments to the First Federal Congress.” (Alternately, students can read this handout.) This sets the stage for the following lesson on Madison’s proposed amendments, the first draft of the Bill of Rights. Teacher presents the handout that lists those amendments, which students will read and annotate for homework.

SUMMARY HOMEWORK/EXTENDED ACTIVITIES

1. Seven state ratifying conventions proposed amendments, all accessed online [HERE](#). Judging from these various proposals, which concerns seemed to be upmost on people’s minds?
2. Imagine that you are a delegate to a state ratifying convention, and try to ignore all you know about what has transpired since that time. What concerns do you think would be upmost in your mind? Which amendments, if any, would you push most forcefully?
3. Now, from our perspective today, which amendments that were proposed then, but not adopted, would you like to see approved?
4. What amendments that were *not* proposed at the time, nor ratified subsequently, do you think should be added to the Constitution today?
5. Discuss the political prospects of any amendments you would like to add.

State Amendments Handout A. Bill Of Rights: Background

Anglo-Americans have always embraced a culture of rights. The [first colonial charter, granted to the founders of Virginia in 1606](#), promised that people who emigrated to America would “have and enjoy all liberties, franchises, and immunities ... as if they had been abiding and born, within this our realm of England.” In several other colonies, either the Crown or the colonial proprietors specified liberties that the government was duty bound to respect. In Maryland, Massachusetts, and New York, the people themselves, through their representatives in the legislatures, passed laws that foreshadowed the Bill of Rights.

The [1641 Massachusetts Body of Liberties](#) listed 98 specific rights the people were entitled to enjoy. Number 45, for example, stated: “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.” Protections for those accused of crimes included the right to post bail, legal representation, presentation of evidence, a speedy trial by jury, appeal to a higher court, security against double jeopardy, and a prohibition against “bodilie punishments” that are “inhumane Barbarous or cruel.” (This meant no more than 40 lashes, “unles his crime be very shamefull.”)

The guarantees of the [Massachusetts Body of Liberties](#) did not end there. Foreigners escaping persecution were to be welcomed. Monopolies were prohibited. No man could be pressed into fighting an offensive war without his consent. Parents could not “wilfullie and unreasonably deny any childe timely or convenient mariage.” Servants could flee from cruel masters, and if a master “smite out” an eye or a tooth, the servant could go free. Witches, on the other hand, were to be put to death, as were blasphemers, adulterers, and homosexuals. The secured rights are all the more striking because they were protected by a Puritanical society we know more for its witch hunts than for its attention to individual liberties.

After independence, new constitutions enacted in eleven states guaranteed trial by jury in criminal cases and protected the freedom of worship. All but two guaranteed a free press. Most states prohibited excessive fines or bail, forced self-incrimination, and general search warrants. Some included freedom of assembly, the right to legal counsel, and trial by jury in civil cases. Some states included a prefatory “declaration of rights,” while others integrated protections of rights into the body of their constitutions. Only New Hampshire called its list a “bill of rights.”

Such was the heritage of the 55 men who drew up a new plan of government in 1787. Realizing the government they were creating had a broader and deeper reach than the old confederation, the framers would naturally go to some lengths to guarantee that it would not trample on people’s time-honored rights.

But they did not.

The first draft of the new constitution, the Virginia Plan, merely laid out the outlines for a new federal government. Understandably, at this embryonic stage, the draft did not consider protections against governmental abuse, and neither did its chief alternative, the New Jersey

plan. During the first two months of debates, delegates did address the fundamental right of representation and the right not to be taxed without representation, but they did not concern themselves with the kinds of protections against governmental abuse we see in the Bill of Rights.

Starting in August, delegates added a few protections of rights to the body of the Constitution: trial by jury in criminal offenses; requirement of writs of Habeas Corpus (the government cannot hold prisoners secretly or without showing cause—a protection guaranteed by British law for over a century); prohibition of bills of attainder (bills aimed at specified individuals or groups), ex post facto (retrospective) laws, and religious tests as qualifications for public office.

On [September 12](#), after three-and-one-half months of deliberation, and only five days before they Convention would adjourn, George Mason, the principal drafter of the Virginia Declaration of Rights, presented a bold idea: why not preface the Constitution with a full “Bill of Rights,” as many of the states had done with their constitutions? “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,” he said. Elbridge Gerry then moved that the preparation of a Bill of Rights be sent to committee.

Only one delegate addressed the motion. Roger Sherman stated briefly, “The State Declarations of Rights are not repealed by this Constitution; and being in force are sufficient.” That ended the discussion. On the motion to prepare a bill of rights in committee, not a single state voted “ay.” Mason’s suggestion might have found a warmer reception earlier, but the Committee of Style had just presented its almost-final draft, and delegates thought their work was done. Perhaps it was weariness, not logic or ill-will, that doomed a bill of rights at the Federal Convention.

The framers’ neglect was a colossal political blunder. They failed to realize that an express declaration of rights that limited governmental authority would make their plan more palatable to Americans who had come to expect such assurances. In the debates over ratification, Federalists argued that the proposed Constitution granted the government only specified powers, and any powers *not* specified reverted *automatically* to the people. For example, guaranteeing freedom of the press was not necessary because the Constitution did not grant the government power over the press. Alexander Hamilton, in [The Federalist No. 84](#), devoted a full essay to this argument, but to little effect. The absence of a bill of rights became a major rallying cry for those opposed to ratification.

(Adapted from Ray Raphael, *Constitutional Myths*, 134-139.)

State Amendments Handout B. Amendments Offered By The States: Background

At the close of the Federal Convention, George Mason issued [a sweeping indictment](#) “It was improper to say to the people, take this or nothing.” The people had no say in writing the proposed Constitution. They were empowered to ratify or reject the proposed Constitution in state conventions, but the ratification process required a simple up or down vote. There was no in between.

Pursuant to Article VII of the Constitution, each state held a special convention to vote on ratification. The first five states to do so (Delaware, Pennsylvania, New Jersey, Georgia, Connecticut) voted to ratify the Constitution without making any suggestions for how it might be improved. But many people in Massachusetts, the sixth state to vote on ratification, did not want to “take this or nothing.” The Southborough town meeting, when electing its representatives to the state ratification convention, issued this instruction: “It is our opinion that the Federal Constitution, as it now stands ought not to be ratified, but under certain limitations and amendments it may be a salutary form of government.” Massachusetts Speaker of the House James Warren, writing as “A Republican Federalist,” objected to the idea that states were supposed to “take this or have none,” without any chance to add, subtract, or alter it. “This may be language adopted to slaves, but not to freemen,” he wrote. (SOURCES: *Documentary History of Ratification of the Constitution* 5:1032-33 [Southborough] and 5:834 [“Republican Federalist.”])

At the Massachusetts convention, Federalists found themselves just shy of the votes required for ratification. To gain converts, they agreed that the convention would “recommend” nine amendments for future consideration, and this deal procured just enough votes to secure ratification.

Today, some say that the amendments proposed by Massachusetts were an embryonic “Bill of Rights.” You can evaluate that by looking carefully at [those nine amendments](#), listed in this lesson. Some also say that Federalists made a “promise” that a Bill of Rights would be added to the Constitution. You can evaluate that as well by looking carefully at wording that introduced and concluded the proposed amendments. Was there a “promise”?

After Massachusetts set an example, five of the six remaining ratification conventions recommended amendments. South Carolina proposed four amendments. New Hampshire based its amendments on those of Massachusetts, altering one and adding three more. Virginia proposed twenty amendments as well as a detailed “declaration or bill of rights” containing twenty additional items. North Carolina copied Virginia’s lists and then added six additional amendments. New York proposed thirty-two amendments plus twenty-four “principles,” essentially its own declaration of rights that it included in its official ratification document. The Maryland convention worked on amendments but for political and procedural reasons voted to ratify without formalizing these.

In this lesson you will examine amendments suggested by one or more of these states. You will mark these up in three ways.

1. For each amendment, consider: Is this a broad assertion of a **right** (including collective rights and the right to political representation) or limitation on the power of the new government? If so, write “**Right**” in the **left** margin. Here are some examples of individual or collective rights:

Massachusetts: “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.”

Virginia: “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.”

New York: “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.”

2. Does this proposed amendment suggest a new **rule** for how the government would actually operate (not just a general assertion of a right or principle)? If so, write “**Rule**” in the **left** margin. Here are some examples or proposed new rules:

Massachusetts: “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.”

Virginia: “That a regular Statement and account of the Receipts and Expenditures of all public money shall be published at least once in every Year.”

New York: “That the Congress shall not declare War Without the concurrence of two-thirds of the Senators and Representatives present in each House.”

This is not an absolute either/or situation. Some amendments contain both a **right** and a specific **rule** that guarantees that right. If so, mark “**Right and Rule**” in the left margin. If you are uncertain, that’s okay. Just do your best and continue.

3. In the **right** margin, pick out a **key word or phrase** that suggests the subject of each proposed amendment. You do not have to summarize the amendment, just indicate what it is **about**. Here are some examples:

Massachusetts: “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.” — **No title of nobility**

Virginia: “Seventh, That no commercial treaty shall be ratified without the concurrence of two thirds of the whole number of the members of the Senate.”— **Commercial treaties**

New York: “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.”
— **Taxes**

Again, this is not an exact science. If you cannot understand an amendment, move on; there are many that you will understand. These are notes so you can find amendments that deal with specific issues that we will discuss and debate in class.

State Amendments Handout C. Amendments Proposed By The Massachusetts, South Carolina, And New Hampshire Ratifying Conventions

MASSACHUSETTS

[Amendments Proposed by the Massachusetts Convention \(February 6, 1789\)](#)

In Convention of the delegates of the People of the Commonwealth of Massachusetts
February 6th 1788

The Convention have 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 make a requisition upon the States to assess levy & pay their respective proportions of such Requisitions 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 per cent per annum from the time of payment prescribed in such requisition.

FIFTHLY, That Congress erect no Company or 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 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.

And that the United States in Congress Assembled may have due notice of the Assent & Ratification of the said Constitution by this Convention it is, Resolved, that the Assent & Ratification aforesaid be engrossed on Parchment together with the recommendation & injunction aforesaid & with this resolution & that His Excellency John Hancock Esqr President & the Honorable William Cushing Esqr Vice President, of this Convention transmit the same, counter-signed by the Secretary of the Convention under their hands & seals to the United States in Congress Assembled JOHN HANCOCK President WM CUSHING Vice President GEORGE RICHARDS MINOT, Secretary. Pursuant to the Resolution aforesaid WE the President & Vice President abovenamed Do hereby transmit to the United States in Congress Assembled, the same Resolution with the above Assent and Ratification of the Constitution aforesaid for the United States, And the recommendation & injunction above specified. In Witness whereof We have hereunto set our hands & Seals at Boston in the Commonwealth aforesaid this Seventh day of February Anno Domini, one thousand Seven Hundred & Eighty eight, and in the Twelfth year of the Independence of the United States of America. JOHN HANCOCK President [SEAL.] Wm CUSHING Vice President [SEAL.]

SOUTH CAROLINA

Amendments Proposed by South Carolina (May 23, 1788)

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 eighteenth 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 [SEAL.] Attest JOHN SANDFORD DART Secretary [SEAL.]

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 [SEAL.] Attest JOHN SANFORD DART Secretary [SEAL.]

NEW HAMPSHIRE

[Amendments Proposed by the New Hampshire Convention \(June 21, 1788\)](#)

With minor changes of wording, New Hampshire proposed the same amendments as did Massachusetts, but with this modification to the seventh:

“Seventhly, All Common Law Cases between Citizens of different States shall be commenced in the Common Law-Courts of the respective States & 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.”

New Hampshire then added three additional amendments:

“Tenth, 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.”

“Eleventh, Congress shall make no Laws touching Religion, or to infringe the rights of Conscience.”

“Twelfth, Congress shall never disarm any Citizen unless such as are or have been in Actual Rebellion.”

The instructions to members of Congress were the same as those that Massachusetts stipulated.

State Amendments Handout D. Amendments Proposed By Virginia's Ratifying Convention

Amendments Proposed by the Virginia Convention (June 27, 1788)

We the Delegates of the People of Virginia duly elected in pursuance of a recommendation from the General Assembly and now met in Convention having fully and freely investigated and discussed the proceedings of the Federal Convention and being prepared as well as the most mature deliberation hath enabled us to decide thereon Do in the name and in behalf of the People of Virginia declare and make known that the powers granted under the Constitution being derived from the People of the United States may be resumed by them whensoever the same shall be perverted to their injury or oppression and that every power not granted thereby remains with them and at their will: that therefore no right of any denomination can be cancelled abridged restrained or modified by the Congress by the Senate or House of Representatives acting in any Capacity by the President or any Department or Officer of the United States except in those instances in which power is given by the Constitution for those purposes: & that among other essential rights the liberty of Conscience and of the Press cannot be cancelled abridged restrained or modified by any authority of the United States. With these impressions with a solemn appeal to the Searcher of hearts for the purity of our intentions and under the conviction that whatsoever imperfections may 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, We the said Delegates in the name and in behalf of the People of Virginia do by these presents assent to and ratify the Constitution recommended on the seventeenth day of September one thousand seven hundred and eighty seven by the Federal Convention for the Government of the United States hereby announcing to all those whom it may concern that the said Constitution is binding upon the said People according to an authentic Copy hereto annexed in the Words following;

Done in Convention this twenty Sixth day of June one thousand seven hundred and eighty eight By Order of the Convention EDMD PENDLETON President [SEAL.] Virginia towit:

Subsequent Amendments agreed to in Convention as necessary to the proposed Constitution of Government for the United States, 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: Videlicet;

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:

FIRST, 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.

SECOND. 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.

THIRD, 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.

FOURTH, 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.

FIFTH, 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 fixt 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 former members to be eligible or ineligible, as the rules of the Constitution of Government, and the laws shall direct.

SIXTH, 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.

SEVENTH, 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.

EIGHTH, 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 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.

NINTH. 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.

TENTH. 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.

ELEVENTH. 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.

TWELFTH. 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.

THIRTEENTH, That excessive Bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

FOURTEENTH, That every freeman has a right to be secure from all unreasonable searches and seizures of his person, his papers and his 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.

FIFTEENTH, 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.

SIXTEENTH, That the people have a right to freedom of speech, and of writing and publishing their Sentiments; but the freedom of the press is one of the greatest bulwarks of liberty and ought not to be violated.

SEVENTEENTH, 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.

EIGHTEENTH, 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.

NINETEENTH, 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.

TWENTIETH, 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 BODY OF THE CONSTITUTION

FIRST, 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.

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

THIRD, 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.

FOURTH, 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.

FIFTH, 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.

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

SEVENTH, 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.

EIGHTH, That no navigation law, or law regulating Commerce shall be passed without the consent of two thirds of the Members present in both houses.

NINTH, 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.

TENTH, 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.

ELEVENTH, That each State respectively shall have the power to provide for organizing, arming and disciplining it's 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.

TWELFTH That the exclusive power of legislation given to Congress over the Federal Town and it's 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.

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

FOURTEENTH 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 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.

FIFTEENTH, 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.

SIXTEENTH, 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.

SEVENTEENTH, 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 may be construed either as making exceptions to the specified powers where this shall be the case, or otherwise as inserted merely for greater caution.

EIGHTEENTH, That the laws ascertaining the compensation to 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.

NINETEENTH, That some Tribunal other than the Senate be provided for trying impeachments of Senators.

TWENTIETH, That the Salary of a Judge shall not be encreased or diminished during his continuance in Office, otherwise than by general regulations of Salary which may take place on a revision of the subject at stated periods of not less than seven years to commence from the time such Salaries shall be first ascertained by Congress.

State Amendments Handout E. Amendments Proposed By New York's Ratifying Convention

[Amendments Proposed by the New York Convention \(July 26, 1788\)](#)

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 Common-wealth 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.

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 meantime 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 increased 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 premises; 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, Dockyards 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 or establish any Tribunals or Inferior Courts, with any other than Appellate Jurisdiction, except such as may be necessary for the Trial 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 Land 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 preceeding 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. Attested- GEO: CLINTON President JOHN McKESSONN ABM B. BANCKER Secretaries-

State Amendments Handout F. Amendment Process: Article V Of The United States Constitution

Article V of the Constitution states:

“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.”

State Amendments Handout G. Historical Outcome: Why Madison Introduced Amendments To The First Federal Congress

What was to be done with the amendments and declarations of rights proposed at state ratifying conventions?

In Massachusetts, South Carolina, New Hampshire, and Virginia, supporters of the proposed Constitution secured ratification with no more than a promise to introduce the amendments in Congress, once the new rules had already taken effect. The New York Convention, however, called for a second national constitutional convention to consider all amendments that had been suggested, and it sent a circular letter to the rest of the states proposing just such a convention. The North Carolina Convention refused to ratify the Constitution until a second national convention had actually met and considered all the proposed amendments.

The growing prospect of a second convention horrified James Madison. “If an early general convention cannot be parried,” he wrote to George Washington, “it is seriously to be feared that the system which has resisted so many direct attacks may be successfully undermined by its enemies.”¹ Washington agreed. New York’s circular letter “will be attended with pernicious consequences,” he wrote back to Madison.²

Madison considered several of the amendments “highly objectionable.”³ The most worrisome of the lot was the prohibition against direct federal taxation unless states failed to meet their requisitions, an amendment that appeared on every state’s list. This placed the very essence of the Constitution in jeopardy. “Those who opposed the Constitution,” he wrote to Thomas Jefferson, were trying to “mutilate the system, particularly in the article of taxation, without which in my opinion the system cannot answer the purposes for which it was intended.”⁴

How, then, might friends of the new Constitution prevent a second constitutional convention?

Madison saw a way. The best defense was a good offense, he reasoned. If *Congress* seized the initiative and proposed amendments, opponents of the proposed Constitution could not “blow the trumpet for a second convention.” Congress could then pick and choose amendments that did not threaten the basic integrity of the Constitution – a bill of rights,

¹ [Madison to Washington, August 11, 1788](#), Madison, *Papers*, 11: 230.

² [Washington to Madison, August 17, 1788](#), Madison, *Papers*, 11:234.

³ Madison to Hamilton and [Madison to Washington, June 27, 1788](#), Madison, *Papers*, 11:181-83.

⁴ [Madison to Jefferson, August 23, 1788](#), Jefferson, *Papers*, 13:539-541

yes; a weakening of congress's power of taxation, no. Despite his previous opposition to an enumeration of rights, Madison entertained and then embraced this simple political calculus.⁵

Madison's scheme meshed well with his own political needs. In the winter following ratification, he faced a tough election battle for a seat in the First Federal Congress. To gain the critical support of persecuted Baptists in his district, he promised that if elected, he would work to protect "the rights of Conscience in the fullest latitude." Madison, with Jefferson, was a firm believer in religious liberty – in fact, he had engineered the passage of Virginia's unique Statute for Religious Freedom in 1786 – so he had no difficulty in making this promise. He did need to adjust his dismissive attitude toward a bill of rights, however. To a constituent he wrote, "[I]t is my sincere opinion that the Constitution ought to be revised... [A]mendments, if pursued with a proper moderation and in a proper mode, will be not only safe, but may serve the double purpose of satisfying the minds of well meaning opponents, and of providing additional guards in favour of their liberty." Madison won the election, prevailing over an Anti-Federalist who would later succeed him as president, James Monroe.⁶

Washington, who faced no opposition in the first presidential election, gave Madison's plan his blessing. "There are scarcely any of the amendments which have been suggested, to which I have *much* objection, except that which goes to the prevention of direct taxation."⁷ In his inaugural address, he suggested that Congress might consider amendments that could be "safely and advantageously promoted" but avoid those that might "endanger the benefits of an united and effective government."⁸

Those were the guidelines Madison used when preparing a list of amendments he would present to the First Federal Congress, the first draft of what would become our Bill of Rights.

⁵ [Madison to Richard Peters, August 19, 1789](#), in Helen E. Veit, Kenneth R. Bowling, and Charlene Bangs Bickford, eds., *Creating the Bill of Rights: The Documentary Record from the First Federal Congress* (Baltimore: John Hopkins University Press, 1991),

⁶ Jon Butler, "James Ireland, John Leland, John 'Swearing Jack' Waller, and Baptist Campaign for Religious Freedom in Revolutionary Virginia," in Alfred F. Young, Gary B. Nash, and Ray Raphael, eds., *Revolutionary Founders: Rebels, Radicals, and Reformers in the Making of the Nation* (New York: Alfred A. Knopf, 2011), 182; [Madison to George Eve, January 2, 1789](#), Madison, *Papers*, 11:404-405.

⁷ [Washington to Jefferson, August 31, 1788](#), Washington, *Papers (Confederation Series)*, 6:491-495.

⁸ [Washington's First Inaugural Address to Congress, April 30, 1789](#), Washington, *Papers (Presidential Series)* 2:176.

State Amendments Handout H. Vocabulary List

1. Ratification: To confirm by expressing consent, approval, or formal sanction.
2. Federalist: A person in favor of a strong central government.
3. Anti-Federalist: A person who opposed extension of the powers of the federal government.
4. Excise: A tax levied on certain goods produced or sold within a country and on licenses granted for certain activities.
5. Impost: A tax or other compulsory payment.
6. Exigency: An urgent need or demand.
7. Requisitions: An authoritative or formal demand for something to be done, given or supplied.
8. Per Centum per Annum: Percent per year.
9. Jurisdiction: The official power to make legal decisions and judgments.
10. Admiralty: The jurisdiction of courts of law over cases concerning ships or the sea and other navigable waters.
11. Appellate: Of or relating to appeals, having the power or authority to review and decide appeals, as a court.
12. Indictment: A formal charge or accusation of a crime.
13. Habeus Corpus: An order requiring a person under arrest to be brought before a judge or into court.
14. Insolvent: Unable to pay debts owed.
15. Enumeration: The action of mentioning a number of things one by one.
16. Impeachment: A charge of misconduct made against the holder of a public office.