

On THE BILL OF RIGHTS, 1787-1789

For many Americans after the Constitutional Convention of 1787, the decision to support or oppose the new plan of government came down to one issue—whether their individual liberties were jeopardized by its lack of a bill of rights. After all, they had rebelled against Britain because in their view it had ceased to respect their age-old liberties as Englishmen—liberties enshrined in the 1215 Magna Carta and the 1689 English Declaration of Rights. Having fought a long war to protect these rights, were they then to sacrifice them to their *own* government? Others countered that a bill of rights actually endangered their liberties—that listing the rights a government could *not* violate implied that unlisted rights *could* be restricted or abolished. What to do? Follow the discussion in these selections from newspapers, addresses, and correspondence of the day.

17 Sept. 1787. U.S. Constitution adopted by the Constitutional Convention and submitted to the states for ratification.

Dec. 1787. Constitution ratified by three states—DELAWARE, PENNSYLVANIA, and NEW JERSEY—of the nine required for ratification.

■ “*what the people are entitled to*” Thomas Jefferson, Paris,¹ to James Madison, 20 Dec. 1787__

I will now add what I do not like [about the proposed Constitution]. First, the omission of a bill of rights providing clearly and without the aid of sophisms² for freedom of religion, freedom of the press, protection against standing armies, restriction against monopolies, the eternal and unremitting force of the habeas corpus laws, and trials by jury in all matters of fact triable by the laws of the land & not by the law of Nations. . . . Let me add that a bill of rights is what the people are entitled to against every government on earth, general or particular, & what no just Let me add that a bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse or rest on inference. . . .

I have thus told you freely what I like and dislike: merely as a matter of curiosity for I know your own judgment has been formed on all these points after having heard every thing which could be urged on them. I own [admit] I am not a friend to a very energetic government. It is always oppressive. . . . After all, it is my principle that the will of the Majority should always prevail. If they approve the proposed Convention in all its parts, I shall concur in it cheerfully in hopes that they will amend it whenever they shall find it work wrong.

I think our governments will remain virtuous for many centuries, as long as they are chiefly agricultural; and this will be as long as there shall be vacant lands in any part of America. When they get piled upon one another as in Europe. Above all things I hope the education of the common people will be attended to, convinced that on their good sense we may rely with the most security for the preservation of a due degree of liberty.

¹ Jefferson was serving in Paris as an American representative to the French government.

² *Sophism*: a deliberately misleading argument.

■ **“thread on which hangs suspended all their hopes”** “Medium,” letter to the *Hampshire Chronicle*, Springfield, Massachusetts, 25 Dec. 1787—

I find that all are clearly agreed in the truth of this position — that an energetic Federal Government is essential to our happiness and existence as a nation. . . . The only thing, therefore, remaining to be decided is whether under this constitution our essential freedom can be maintained?

A hot brained Federalist will tell you that it must be adopted without limitations or reserve, and I have known some to go so far as to call in the assistance of *tar and feathers* against such as were of different sentiment.

The Antifederalists in general are more moderate but equally obstinate. Some of them would reject the whole, purely because some few parts of it do not meet with the approbation [approval].

Persons of the above description are swayed by passions, not by reason, and should not be regarded by the honest and sensible part of the community.

I really think that if a bill of rights had accompanied our new constitution, little or no opposition would have been made to it. It may be true that it is defective, but none have yet been able to maintain that it is materially so. We have, however, much reason to expect amendments, if necessary, from our representatives who act under it in the first instance [first session of Congress]. In short, we cannot hazard much, provided we are previously secured by a bill of rights. This with the antifederalist seems to be the thread on which hangs suspended all their hopes and wishes.

Let those, therefore, who call themselves Federalists lay aside a little of their arrogance and instead of abusing, endeavor to convince their fellow citizens of the necessity of embracing the constitution as it stands, the impracticability of securing a better one, and that anarchy will be the consequence of its rejection. Let them unite with their brethren in recommending a bill of rights which is, in fact, the best security we can have against the encroachments of despotism, and I flatter myself that our state will not be the last that shall accede to it.

**Twelve Amendments Submitted to the States by Congress
24 September 1789**

Article the first [not ratified]

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 [Amendment XXVII; ratified 1992]

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 [Amendment I]

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

Article the fourth [Amendment II]

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 [Amendment III]

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

Article the sixth [Amendment IV]

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

Article the seventh [Amendment V]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same 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 [Amendment VI]

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

Article the ninth [Amendment VII]

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

Article the tenth [Amendment VIII]

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

Article the eleventh [Amendment IX]

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

Article the twelfth [Amendment X]

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

■ **“grand bulwarks of freedom”**

Thomas B. Wait, Maine, to George Thatcher,³ 8 Jan. [1788]__

Your arguments against the necessity of a Bill of Rights are ingenious, but pardon me, my friend, they are not convincing. — You have traced the origin of a Bill of Rights accurately. — The People of England, as you say, undoubtedly made use of a Bill of Rights to obtain their liberties of their sovereigns,⁴ but is this an argument to prove that they ought not now to make use of Bills in defense of those liberties? — Shall a man throw away his sword and refuse to defend a piece of property for no other reason than that his property was obtained by that very sword? — Bills of Rights have been the happy instruments of wresting the privileges and rights of the people from the hand of Despotism, and I trust God that Bills of Rights will still be made use of by the people of America to defend them against future encroachments of despotism. — Bills of Rights, in my opinion, are the grand bulwarks of freedom.

But, say some, however necessary in state Constitutions, there can be no necessity for a Bill of Rights in the Continental plan of Govt. — because every Right is reserved [to the people and the states] that is not *expressly* given up — Or, in other words, Congress have no powers but those *expressly* given by that Constitution. — This is the *doctrine* of the *celebrated* Mr. Wilson,⁵ and as you, my friend, have declared it *orthodox*, be so good as to explain the meaning of the following Extracts from the Constitution — Art. I Sect. 9. — “The privilege of the writ of Habeas Corpus shall *not* be suspended &c.” — “No bill of attainder or ex post facto law shall be passed.” — “No money shall be drawn from the treasury” &c. — “No title of nobility shall be granted by the United States.” — Now, how absurd — how grossly absurd is all this if Congress, in reality, have no powers but those particularly specified in the Constitution!⁶ —

It will not do, my friend — for God’s sake let us not deny self-evident propositions — let us not sacrifice the truth that we may establish a favorite hypothesis — in the present case, the liberties and happiness of a world may also be sacrificed. —

Jan.-Feb. 1788. Constitution ratified by CONNECTICUT and GEORGIA (states 4 & 5).

===== 6 Feb. 1788. Constitution ratified by MASSACHUSETTS, with nine proposed amendments⁷ (state 6). =====

24 Mar. 1788. Call for a ratifying convention rejected by RHODE ISLAND.

■ **“the danger of trusting arbitrary power”**

Benjamin Rush to David Ramsay,
late March/early April 1788⁸__

I have the same opinion with the antifederalists of the danger of trusting arbitrary power to any single body of men — but no such power will be committed to our new rulers. Neither the House of Representatives, the Senate, or the President can perform a single legislative act by themselves. A hundred principles in man will lead them to watch, to check, and to oppose each other should an attempt be made by either of them upon the liberties of the people. If we may judge of their conduct, by what we have so often observed in all the state governments, the members of the federal legislature will much oftener injure their constituents by voting agreeably to their inclinations than [by voting] *against* them.⁹

===== 26 April 1788. Constitution ratified by MARYLAND (state 7). =====

³ Thomas Wait was an influential Boston publisher who had co-founded the first printing business in Portland, Maine (then part of Massachusetts). George Thatcher was a lawyer-politician who had served as a Massachusetts delegate to the 1787 Constitutional Convention.

⁴ Referring to the 1215 Magna Carta, the 1628 Petition of Right, and the 1689 English Bill of Rights.

⁵ James Wilson was a Federalist leader in the Pennsylvania ratifying convention and a national Federalist spokesman.

⁶ I.e., if Congress has no powers other than those given in the Constitution, then why did the founders include specific prohibitions on Congressional authority in Article II of the Constitution?

⁷ The proposed amendments included jury trial in civil cases, grand jury indictment, a ban on titles of nobility, limits on Congress’s taxation power and trade regulation authority, etc., but did not include freedom of religion, speech, press, and other First Amendment guarantees. See the Massachusetts ratification document at The Founders’ Constitution, University of Chicago Press, at press-pubs.uchicago.edu/founders/documents/v1ch14s33.html.

⁸ As published in the Charleston *Columbian Herald*, 8 April 1788. The men were prominent physicians, Federalists, and active commentators on political affairs—Rush in Philadelphia, Pennsylvania, and Ramsay in Charleston, South Carolina.

⁹ I.e., if members of Congress vote as state legislators often have, they will more often harm the voters of their district by voting *with* their wishes [if for unwise and potentially damaging laws] than by voting *against* them as bad law.

■ ***“men’s minds will be so much agitated”***

George Washington, Mount Vernon, to the Marquis de Lafayette, Paris, 28 April-1 May 1788__

The Convention[s] of Six States only have as yet accepted the new Constitution. No one has rejected it. It is believed that the Convention of Maryland, which is now in session, and that of South Carolina, which is to assemble on the 12th of May, will certainly adopt it. It is, also, since the elections of Members for the Convention have taken place in this State [Virginia], more general[ly] believed that it will be adopted here than it was before those elections were made. . . .

. . . The opinion of Mr. Jefferson & yourself is certainly a wise one — that the Constitution ought by all means to be accepted by nine States before any attempt should be made to procure amendments. For, if that acceptance shall not previously take place, men’s minds will be so much agitated and soured that the danger will be greater than ever of our becoming a disunited People. Whereas, on the other hand, with prudence in temper and a spirit of moderation, every essential alteration [amendment] may in the process of time be expected. . . .

P.S. May 1st.— Since writing the foregoing letter, I have received Authentic Accounts that the Convention of Maryland have ratified the new Constitution by a Majority of 63 to 11.—

23 May 1788. Constitution ratified by South Carolina (state 8).

21 June 1788. **Constitution ratified by NEW HAMPSHIRE with twelve proposed amendments¹⁰ — the ninth and last ratifying state required for adoption of the Constitution.**

25 June 1788. Constitution ratified by VIRGINIA, with twenty proposed amendments¹¹ (state 10).

26 July 1788. Constitution ratified by NEW YORK, with thirty-one proposed amendments¹² (state 11).

2 Aug. 1788. Constitution neither ratified nor rejected by NORTH CAROLINA in first ratifying convention, which submitted a twenty-item Declaration of Rights and twenty-six other amendments.¹³

■ ***“suffered a political shipwreck”***

George Washington to Charles Pettit,¹⁴ 16 Aug. 1788__

I am truly pleased to learn that those who have been considered as its most violent opposers will not only acquiesce peaceably [to the Constitution] but cooperate in its organization and content themselves with asking amendments in the manner prescribed by the Constitution. The great danger, in my view, was that everything might have been thrown into the last stage of Confusion before any government whatsoever could have been established, and that we should have suffered a political shipwreck without the aid of one friendly star to guide us into Port. Every real patriot must have lamented that private feuds and local politics should have unhappily insinuated themselves into, and in some measure obstructed the discussion of a great national question. A just opinion, that the People when rightly informed will decide in a proper manner, ought certainly to have prevented all intemperate or precipitate [impassioned and hurried] proceedings on a subject of so much magnitude, Nor should a regard to common decency have suffered the Zealots in the minority to have stigmatized the authors of the Constitution as Conspirators and Traitors. However unfavorably individuals, blinded by passion and prejudice, might have thought of the characters which composed the Convention, the election of those characters by the Legislatures of the several States and the reference of their Proceedings to the free determination of their Constituents did not carry the appearance of *a private combination to destroy the liberties of their Country*. . . .

For myself, I expected not to be exempted from obloquy¹⁵ any more than others. It is the lot of humanity.

¹⁰ The proposed amendments included freedom of religion, due process rights, jury trial in civil case, and other protections in the final Bill of Rights. See the New Hampshire ratification document at The Avalon Project, Yale Law School, at avalon.law.yale.edu/18th_century/ratnh.asp.

¹¹ The proposed amendments included most of the protections in the final Bill of Rights, including due process procedures and First Amendment rights, in addition to other restrictions on federal power and procedures. See the Virginia ratification document at The Avalon Project, Yale Law School, at avalon.law.yale.edu/18th_century/ratva.asp.

¹² The proposed amendments included most of the protections in the final Bill of Rights. See the New York ratification document at The Avalon Project, Yale Law School, at avalon.law.yale.edu/18th_century/ratny.asp.

¹³ The proposed amendments and Declaration of Rights included most of the protections in the final Bill of Rights. See the North Carolina ratification documents at The Founders’ Constitution, University of Chicago Press, at press-pubs.uchicago.edu/founders/documents/bill_of_rightss10.html.

¹⁴ Charles Pettit was a wealthy Philadelphia merchant who had served as a Pennsylvania representative in the Continental Congress.

¹⁵ *Obloquy*: Abusive language, defamation.

■ ***“it is probable they will be added”***

James Madison to Thomas Jefferson, Paris, 17 Oct. 1788__

The little pamphlet herewith enclosed will give you a collective view of the alterations [amendments] which have been proposed for the new Constitution. . . . As far as these may consist of a constitutional declaration of the most essential rights, it is probable they will be added, though there are many who think such addition unnecessary and not a few who think it misplaced in such a Constitution. There is scarce any point on which the party in opposition [Anti-Federalists] is so much divided as to its importance and its propriety. . . . I have not viewed it in an important light

1. because I conceive that in a certain degree . . . [that] the rights in question are reserved by the manner in which the federal powers are granted.
2. because there is great reason to fear that a positive declaration of some of the most essential rights could not be obtained in the requisite latitude [breadth of interpretation]. I am sure that the rights of Conscience in particular, if submitted to public definition, would be narrowed much more than they are likely ever to be by an assumed power. . . .
3. because the limited powers of the federal Government and the jealousy of the subordinate [state] Governments afford a security which has not existed in the case of the State Governments and exists in no other.
4. because experience proves the inefficacy of a bill of rights on those occasions when its control is most needed. Repeated violations of these parchment barriers have been committed by overbearing majorities in every State. In Virginia I have seen the bill of rights violated in every instance where it has been opposed to a popular current. . . . Wherever the real power in a Government lies, there is the danger of oppression. In our Governments the real power lies in the majority of the Community, and the invasion of private rights is chiefly to be apprehended [feared] not from acts of Government contrary to the sense of its constituents, but from acts in which the Government is the mere instrument of the major number of the constituents. This is a truth of great importance, but not yet sufficiently attended to, and is probably more strongly impressed on my mind by facts and reflections suggested by them than on yours which has contemplated abuses of power issuing from a very different quarter

JEFFERSON'S REPLY, 15 MARCH 1789

Your thoughts on the subject of the Declaration of rights in the letter of Oct. 17 I have weighed with great satisfaction. . . . The Declaration of rights is like all other human blessings — alloyed with some inconveniences and not accomplishing fully its object. But the good in this instance vastly outweighs the evil. I cannot refrain from making short answers to the objections which your letter states to have been raised.

1. That the rights in question are reserved by the manner in which the federal powers are granted. *Answer.* . . . [In a constitution] which leaves some precious articles unnoticed and raises implications against others, a declaration of rights becomes necessary by way of supplement. This is the case of our new federal constitution. . . .
2. A positive declaration of some essential rights could not be obtained in the requisite latitude. *Answer.* Half a loaf is better than no bread. If we cannot secure all our rights, let us secure what we can.
3. The limited powers of the federal government and jealousy of the subordinate governments afford a security which exists in no other instance. *Answer.* . . . The declaration of rights will be the text whereby they will try [the state governments will judge or test] all the acts of the federal government. In this view it is necessary to the federal government also, as by the same text [declaration] they may try the opposition of the subordinate governments.
4. Experience proves the inefficacy of a bill of rights. True. But though it is not absolutely efficacious under all circumstances, it is of great potency always, and rarely inefficacious. . . . The inconveniences of the Declaration are that it may cramp government in its useful exertions. But the evil of this is shortlived, moderate, and reparable. The inconveniences of the want [lack] of a Declaration are permanent, afflicting and irreparable—they are in constant progression from bad to worse. The executive in our governments is not the sole, it is scarcely the principal object of my jealousy [concern]. The tyranny of the legislatures is the most formidable dread at present, and will be for long years. That of the executive [president] will come in its turn, but it will be at a remote period. I know there are some among us who would now establish a monarchy. But they are inconsiderable in number and weight of character. The rising race [generation] are all republicans [supporters of democracy]. We were educated in royalism: no wonder if some of us retain that idolatry still. Our young people are educated in republicanism. . . . I am much pleased with the prospect that a declaration of rights will be added and hope it will be done in that way which will not endanger the whole frame of the government, or any essential part of it.

[i.e., France]. Wherever there is an interest and power to do wrong, wrong will generally be done, and not less readily by a powerful & interested party than by a powerful and interested prince. . . . What use then it may be asked can a bill of rights serve in popular Governments? I answer [with] the two following [comments] which, though less essential than in other Governments, sufficiently recommend the precaution.

1. The political truths declared in that solemn manner acquire by degrees the character of fundamental maxims of free Government, and as they become incorporated with the national sentiment, counteract the impulses of interest and passion.
2. Although it be generally true as above stated that the danger of oppression lies in the interested majorities of the people rather than in usurped acts of the Government, yet there may be occasions on which the evil may spring from the latter source, and on such [occasions] a bill of rights will be a good ground for an appeal to the sense of the community.¹⁶ . . . At the same time I must own [admit] that I see no tendency in our governments to danger on that side.

4 March 1789. First Congress under the new Constitution convened in New York City.

30 April 1789. George Washington inaugurated in New York City as the first president under the new Constitution.

- ***“they have my wishes for a favorable reception”*** Pres. George Washington, New York, to James Madison, ca. 31 May 1789__

As far as a momentary consideration has enabled me to judge, I see nothing exceptionable in the proposed amendments. Some of them, in my opinion, are importantly necessary. Others, though of themselves (in my conception) not very essential, are necessary to quiet the fears of some respectable characters and well meaning men. Upon the whole, therefore, not foreseeing any evil consequences that can result from their adoption, they have my wishes for a favorable reception in both houses [of Congress].

- ***“declare the great rights of mankind”*** James Madison, Statement to the House of Representatives with proposed amendments, 8 June 1789__

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 [protectiveness] 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 show 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 [the eleven states that had ratified the Constitution]. It is a desirable thing, on our part as well as theirs, that a reunion 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.

¹⁶ I.e., although the danger of tyranny is more often presented by the *people* — e.g., groups that act outside the democratic process to empower themselves and weaken the political power of others — than by the *government* acting to limit or abolish the rights of the people, yet there may be times when tyranny *would* spring from the government, and in those cases a bill of rights would provide an official basis on which the people could appeal to the government to respect their liberties.

■ **“how can you justify yourself?”**

“Pacificus” to James Madison,¹⁷ New York, 14 Aug. 1789__

. . . Sir, how you can justify yourself in the eyes of the world for espousing the cause of amendments with so much earnestness? Do you, Sir, believe, that the people you represent generally wish for amendments? If you do, Sir, you are more egregiously mistaken than you ever were before. I know from the unanimous declaration of men in several states through which I have lately travelled that amendments are not generally wished for; on the other hand, amendments are not mentioned but with the most pointed disapprobation [disapproval].

The people, Sir, admit what the advocates of amendments in Congress generally allow — that the alterations proposed can do very little good or hurt as to the merits of the constitution; but for this very reason they reprobate [disapprove] any attempt to introduce them. They say, and with great justice, that at the moment when an excellent government is going into operation, when the hopes of millions are revived and their minds disposed to acquiesce peaceably in the federal laws, when the demagogues of faction have ceased to clamor and their adherents are reconciled to the constitution — Congress are taking a step which will revive the spirit of party [faction/divisiveness], spread the causes of contention through all the states, call up jealousies which have no real foundation, and weaken the operations of government when the people themselves are wishing to give it energy. We see, in the debates, it is frequently asserted that some amendments will satisfy the opposition and give stability to the government. . . .

I am not disposed to treat you, Sir, with disrespect. Many years acquaintance has taught me to esteem your virtues and respect your abilities. No man stands higher in my opinion, and people are everywhere willing to place you among the most able, active and useful representatives of the United States. But they regret that Congress should spend their time in throwing out an empty tub to catch people, either factious or uninformed, who might be taken more honorably by reason and equitable laws. They regret particularly that Mr. Madison’s talents should be employed to bring forward amendments which at best can have little effect upon the merits of the constitution, and may sow the seeds of discord from New Hampshire to Georgia.

■ **“as an honest man I feel myself bound”**

James Madison to Richard Peters,¹⁸ 19 Aug. 1789__

The papers enclosed [unidentified] will show that the nauseous project of amendments has not yet been either dismissed or despatched [by the House of Representatives]. We are so deep in them now that, right or wrong, something must be done. I say this not by way of apology, for to be sincere I think no apology requisite [required].

1. because a constitutional provision in favor of essential rights is a thing not improper in itself and was always viewed in that light by myself. It may be less necessary in a republic than a Monarchy, & in a federal Government. than the former [i.e., under the Articles], but it is in some degree rational in every Government, since in every Government power may oppress, and declarations on paper, tho’ not an effectual restraint, are not without some influence.
 2. In many States the Constitution was adopted under a tacit compact in favor of some subsequent provisions on this head. In Virginia it would have been *certainly* rejected, had no assurances been given by its advocates that such provisions would be pursued. As an honest man *I feel* myself bound by this consideration.
- . . .
6. If no amendments be proposed, the language of antifederal leaders to the people will be, we advised you not to adopt the Constitution without previous amendments — You listened to those who told you that subsequent securities for your rights would be most easily obtained — We urged you to insist on a Convention as the only effectual mode of obtaining these — You yielded

¹⁷ Published as a public letter in the New York *Daily Advertiser*, 17 August 1789. At this point Madison was representing Virginia in the House of Representatives in New York City. (“Pacificus” remains unidentified.)

¹⁸ Richard Peters was a member of the Pennsylvania House of Representatives.

to the assurances of those who told you that a Convention was unnecessary, that Congress would be the proper channel for getting what was wanted. &c &c. . . .

7. Some amendments are necessary for North Carolina. I am so informed by the best authorities in that State.

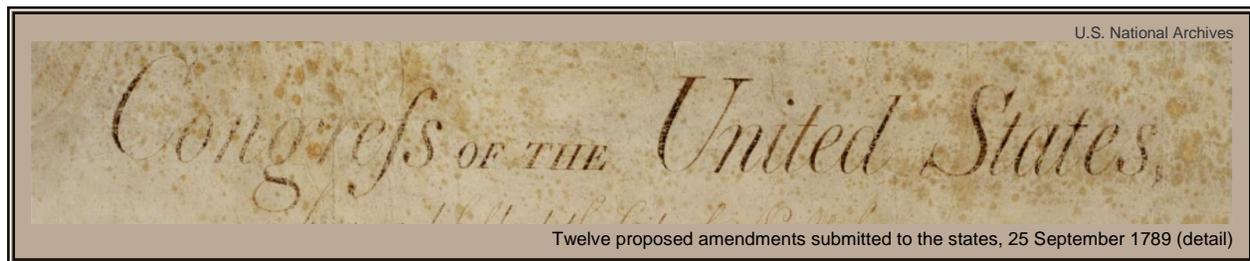
■ **“progress has been exceedingly wearisome”**

James Madison to Edmund Randolph,¹⁹
21 Aug. 1789__

For a week past the subject of amendments has exclusively occupied the House of Representatives. Its progress has been exceedingly wearisome not only on account of the diversity of opinions, that was to be apprehended [anticipated], but of the apparent views of some to defeat by delaying a plan short of their wishes but likely to satisfy a great part of their companions in opposition throughout the Union. It has been absolutely necessary in order to effect anything to abbreviate [shorten] debate and exclude every proposition of a doubtful & unimportant nature.

25 Sept. 1789. Twelve amendments, including final BILL OF RIGHTS, submitted by Congress to the states.

- 20 Nov. 1789. Bill of Rights ratified by NEW JERSEY (rejecting Article II).
- 21 Nov. 1789. Constitution ratified by NORTH CAROLINA in second ratifying convention.
- Dec.-Jan. 1789. Bill of Rights ratified by MARYLAND, NORTH CAROLINA, and SOUTH CAROLINA (approving all twelve amendments).
- Jan.-Mar. 1790. Bill of Rights ratified by NEW HAMPSHIRE, DELAWARE, NEW YORK, and PENNSYLVANIA (rejecting Article I or II).
- 29 May 1790. Constitution ratified by RHODE ISLAND, last of the thirteen states to ratify.
- 7 June 1790. Bill of Rights ratified by RHODE ISLAND (rejecting Article II).
- 3 Nov. 1791. Bill of Rights ratified by VERMONT (admitted to the Union 4 March 1791; approving all amendments).
- 15 Dec. 1791. **Bill of Rights ratified by VIRGINIA (approving all).
Proposed amendments #2-12 adopted as the first ten amendments to the U.S. Constitution.
Amendments #1-8 that protect individual liberties become known as the Bill of Rights.**
- March-April 1939: Bill of Rights ratified by CONNECTICUT, GEORGIA, and MASSACHUSETTS during its sesquicentennial year.



The Papers of James Madison Digital Edition, ed. J. C. A. Stagg. Charlottesville: University of Virginia Press, Rotunda, 2010. Subscription database: rotunda.upress.virginia.edu/founders/JSMN.html. Letters & addresses by: 12-10-1787, 10-17-1788, 6-6-1789, 8-19-1789, 8-21-1789. Letters to: 3-15-1789, ca. 31 May 1789, 8-14-1789.

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¹⁹ Edmund Randolph was a Virginia delegate to the 1787 Constitutional Convention and one of the three delegates who refused to sign the document. In 1788, however, he voted at the Virginia convention to ratify the Constitution as eight other states had already voted for ratification.