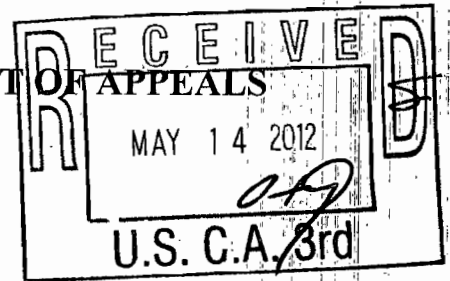


THE UNITED STATES COURT OF APPEALS  
for the  
THIRD CIRCUIT

No. 12-1171



---

**EUGENE MARTIN LaVERGNE**, *individually*,

*Appellant,*

vs.

**JOHN BRYSON** *in his official capacity as the Secretary of the United States Department of Commerce*; **JOHN GROVER** *in his official capacity as the Director of the United States Census Bureau*; **KAREN L. HAAS** *in her official capacity as the Clerk of the United States House of Representatives*; **JOHN BOEHNER** *in his official capacity as the Speaker of the United States House of Representatives*; **DANIAL INOUE** *in his official capacity as the President Pro Tempore of the United States Senate*; **JOSEPH BIDEN** *in his official capacity as the President of the Senate*, and **DAVID FERRIERO** *in his official capacity as the Archivist of the United States of America*,

*Appellees.*

---

**APPELLANT'S REPLY BRIEF  
AND  
F.R.A.P. 28(f) ADDENDUM**

---

**EUGENE MARTIN LAVERGNE  
543 CEDAR AVENUE  
WEST LONG BRANCH, N.J. 07764  
TELEPHONE: (732) 272-1776  
emlesqni@hotmail.com  
APPELLANT *Pro Se***

**TABLE OF CONTENTS:**

	<u><b>Page:</b></u>
<b>INTRODICTION:</b> .....	<b>1</b>
 <b>POINT I:</b>	
<b><i>FIRST THINGS FIRST: ARTICLE THE FIRST WAS RATIFIED AND CONSUMATED INTO PERMANENT FEDERAL CONSTITUTIONAL LAW BY THE CONSTITUTION'S ARTICLE V'S STANDARDS DURING 1789-1792:</i></b> .....	<b>6</b>
 <b>POINT II:</b>	
<b>APPELLANT IS "CORRECT": ARTICLE THE FIRST AT LINE 3 OPERATES TO FIX A PERMENANT <u>MAXIMUM</u> RATIO OF REPRESENTATIVES TO PEOPLE AND TO CONSTITUTIONALLY GUARANTEE THAT THERE WILL NEVER BE A RATIO THAT EXCEEDS A <u>MAXIMUM</u> OF 1 REPRESENTATIVE FOR EVERY 50,000 PEOPLE IN THE NATION:</b> .....	<b>8</b>
<b>A. THE LAST MINUTE "LESS" TO "MORE" CHANGE RECOMMENDED IN THE SEPTEMBER 24, 1789 JOINT CONFERENCE COMMITTEE FINAL REPORT THAT WAS ADOPTED BY CONGRESS:</b> .....	<b>10</b>
<b>B. WHAT THE FINAL JOINT CONFERENCE COMMITTEE REPORT <i>REALLY</i> SAID AND THE "LESS" TO "MORE" CHANGE THAT CONGRESS <i>REALLY</i> APPROVED:</b> .....	<b>12</b>
<b>C. EVEN WITH THE "CLERK'S MISTAKE" AND "SCRIVENER'S ERROR" THAT EXISTS IN SOME OR ALL OF THE 15 "COPIES" OF THE BILL OF RIGHTS, LINE 3 OF ARTICLE THE FIRST STILL OPERATES AS A <i>MAXIMUM</i> RATIO:</b> .....	<b>16</b>
 <b>CONCLUSION:</b> .....	 <b>20</b>

**TABLE OF AUTHORITIES:**

<b><u>Cases:</u></b>	<b><u>Page:</u></b>
<i>Clemons v. United States Department of Commerce</i> , 710 <i>F.Supp.2d.</i> 578, 580 (N.D. Miss. 2010) (3 Judge Court) .....	4
<i>Department of Commerce v. United States House of Representatives</i> , 525 <i>U.S.</i> 316 (1999) .....	3
<i>Dillon v. Gloss</i> , 256 <i>U.S.</i> 368 (1921) .....	6
<b><u>Court Rules:</u></b>	
<i>F.R.A.P.</i> 28(f) .....	<i>passim</i>
<i>F.R.Civ.P.</i> 12(b)(6) .....	1,2,3
<b><u>Other Authorities:</u></b>	
“Congress Backs 27 <sup>th</sup> Amendment”, by Richard L. Berke, <i>New York Times</i> , May 21, 1992 ( <a href="http://www.nytimes.com/1992/05/21/us/congress-backs-27th-amendment.html">www.nytimes.com/1992/05/21/us/congress-backs-27th-amendment.html</a> ) .....	18
<i>Creating the Bill of Rights – The Documentary Record from the First Federal Congress</i> , edited by Helen E. Veit, Kenneth R. Bowling, and Charlene Bangs Bickford, John Hopkins University Press, Baltimore Maryland (1991) .....	14

*Documentary History of the Constitution of the United States of America, 1786-1870*, Volume I (published 1894), Volume II (published 1894), Volume III (published 1900), Volume IV (published 1905) and Volume V (Published 1905), published by the United States Department of State, Washington: Government Printing Office (now a public domain book available on the internet at: [catalog.hathitrust.org/Record/001141005](http://catalog.hathitrust.org/Record/001141005)) ..... 6,7

*Government in England and America*, by S.M. Johnson, Carelton, New York, New York (1864) ..... 18

*History of the United States 1783-1801*, by James Schouler, Dodd, Mead & Co., New York, New York (1880) ..... 18

“House of the Rising Population: The Case for Eliminating the 435 – Member Limit on the U.S. House of Representatives”, by Byron J. Harden, 51 *Washburn Law Journal* 73 (2012) ..... 19

*Lost Rights – The Misadventures of a Stolen Relic*, by David Howard, Houghton Mifflin Harcourt, Boston & New York (2010) ..... 15

“Our Forgotten Constitution: A Bicentennial Comment”, by Akhil Reed Amar, 97 *YaleL.J.* 281 (December 1987) ..... 14

*Oxford English Dictionary* ..... 13

*Proposed Amendments to the Constitution of the United States 1789-1889*, by Herman Ames, Lenox Hill Publishing, New York, New York (1896) ..... 18

*The Bill of Rights: Creation and Reconstruction*, by Reed Akhil Amar, Yale University Press, New Haven, Connecticut (1998) ..... 4

<i>The Birth of the Bill of Rights, 1776-1791</i> , by Robert Allen Rutland, Northeastern University Press, Boston, Massachusetts (1955) .....	<b>18</b>
“The Minimum and Maximum Size of the U.S. House of Representatives (Quantitative Historical Analysis #4)”, by Jeff Quidam, © 2007 thirty-thousand.org .....	<b>19</b>
“The National Archives Presents the ORIGINAL Bill of Rights – with 12 Amendments!”, December 7, 2010 (National Archives Official Press Release) .....	<b>18</b>
“The Role of Electoral Accountability in the Madisonian Machine”, by Christopher M. Straw, 11 <i>N.Y.U.Legis.&amp;Pub.Pol’y</i> 321 (2008) .....	<b>18</b>
“The Telling Tale of the Twenty Seventh Amendment: A Sleeping Amendment Concerning Congressional Compensation is Later Revived”, by John W. Dean, Friday September 27, 2002, in FindLaw® Writ ( <a href="http://writ.news.findlaw.com/dean/20020927.html">http://writ.news.findlaw.com/dean/20020927.html</a> ) .....	<b>18</b>

**F.R.A.P. 28(f) ADDENDUM TO REPLY BRIEF:**

**(\* Highlights in yellow and red added by Appellant to assist the reader and to direct the reader quickly to relevant portions of text at issue in original brief and in ECMF form, in grayscale in photocopy briefs)**

“Certified Copy” of engrossed Resolution of the Connecticut State House of Representatives from the October 1789 Legislative Session held at New Haven, Connecticut, formally ratifying “Article the First” (*specifically ratifying Article the First, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh & Twelfth – all except Article the Second*), original on file at the Connecticut State Library and Archives, specifically located there at: *Connecticut Archival Record Group #001, Early General Records, Connecticut Archives Series, Revolutionary War Series I, Volume 37, Document 302A & 302B.*

“Certified Copy” of engrossed Resolution of the Connecticut State Council from the May 1790 Legislative Session held at Hartford, Connecticut, formally ratifying “Article the First” (*specifically ratifying Article the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh & Twelfth - all 12 proposed Articles of Amendment*), original on file at the Connecticut State Library and Archives, specifically located there at: *Connecticut Archival Record Group #001, Early General Records, Connecticut Archives Series, Civil Officers Series II, Volume 22, Document 4A, 4B, 4C & 4D.*

“Certified Copy” of engrossed Resolution of the Connecticut State House of Representatives from the May 1790 Legislative Session held at Hartford, Connecticut, purporting to now “rescind” or “repeal” by omission the earlier Fall 1789 ratification by an earlier seated House of Representatives of Article the First by now purporting to only agree to ratify Articles 3 through 12 (*specifically now excluding Article the First and the Second, a new position by a new (second) House of Representatives that the same continuing Connecticut State Council steadfastly refused to concur in or allow*), original on file at the Connecticut State Library and Archives, specifically located there at: *Connecticut Archival Record Group #001, Early General Records, Connecticut Archives Series, Revolutionary War Series I, Volume 37, Document 302A & 302B.*

“Certified Copy” of engrossed Resolution of the Connecticut State House of Representatives from the October 1790 Legislative Session held at New Haven, Connecticut, purporting to “reject” in total all 12 Articles of Amendment because the Connecticut State Council would not yield on the desire to “rescind” or “repeal” the prior ratification of Article the First (*and by so doing, this yet third House of Representatives was now seeking to completely affirmatively “rescind” or “repeal” all ratifications made at the October 1789 Legislative Session and all ratifications made at the May 1790 Legislative Session, now by purporting to “reject” and refusing to agree to ratify any of the 12 Articles of Amendment, a position by a new (now third) House of Representatives that the same continuing Connecticut State Council still steadfastly refused to concur in or allow*), original on file at the Connecticut State Library and Archives, specifically located there at: “Connecticut Archival Record Group #001, Early General Records, Connecticut Archives Series, Revolutionary War Series I, Volume 37, Document 302A & 302B.”

“Certified Copy” of the original engrossed Resolution of the Kentucky General Assembly (the Kentucky State House of Representatives and the Kentucky State Senate) dated June 27, 1792 confirming ratification of “Article the First” (*specifically ratifying Article the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh & Twelfth – all 12 proposed articles of amendment*), original on file at the Kentucky Department for Libraries and Archives, Public Records Division, specifically located there at: “Governor Shelby’s Enrolled Bills Book 17”.

“Certified Copy” of *The Statute Law of Kentucky*, by William Little, Esq., Volume I (1809), title page and pages 76-78 (Official printed text version of the June 27, 1792 Resolution ratifying all 12 proposed articles of amendment), original on file at the Kentucky Department for Libraries and Archives, Public Records Division, specifically located there at: “Littell’s *The Statute Law of – I*”.

Photo Real copy of the actual original September 24, 1789 Joint Senate and House Conference Committee Final Report written in longhand by Senator Oliver Ellsworth of Connecticut, original on file in the United States Archives at House Resolutions, SR, DNA (1789).

Reprint in text of the September 24, 1789 Joint Conference Committee Final Report as reprinted at page 50 in the commercially published *Creating the Bill of Rights – The Documentary Record from the First Federal Congress*, edited by Helen E. Veit, Kenneth R. Bowling, and Charlene Bangs Bickford, John Hopkins University Press, Baltimore Maryland (1991).

Copy of page from the *Oxford English Dictionary* for the word “penultimate”.

Photo real copy of the “Vermont 15<sup>th</sup> Copy” of the Bill of Rights from February 1791, certified by then Secretary of State Thomas Jefferson, original on file in the Vermont State Archives.

“The National Archives Presents the ORIGINAL Bill of Rights – with 12 Amendments!”, December 7, 2010 (National Archives Official Press Release).

“The Telling Tale of the Twenty Seventh Amendment: A Sleeping Amendment Concerning Congressional Compensation is Later Revived”, by John W. Dean, Friday September 27, 2002, in FindLaw® Writ (<http://writ.news.findlaw.com/dean/20020927.html>).

Photo Real copy of February 15, 1791 Official Letter from Secretary of State Thomas Jefferson to President George Washington, original on file at the Library of Congress at: The Thomas Jefferson Papers Series 1. General Correspondence. 1651-1827 Thomas Jefferson to George Washington, February 15, 1791, Opinion on Bill for Establishing a National Bank (image 984-990).



Reprint in text of the February 15, 1791 Opinion Letter from Secretary of State Thomas Jefferson to President George Washington as reprinted at page 90 in the commercially published *Liberty and Justice – A Historical Record of American Constitutional Development*, Edited by James Morton Smith and Paul L. Murphy, Alfred A. Knopf, New York, New York (1963).

Photo Real copy of August 8, 1791 Official Letter from Secretary of State Thomas Jefferson to United States Attorney for Massachusetts Christopher Gore, original in file in the Library of Congress at: The Thomas Jefferson Papers Series 1. General Correspondence. 1651-1827 Thomas Jefferson to Christopher Gore, August 8, 1791 (Image 914 of 1131).

Reprint in text of August 8, 1791 Official Letter from Secretary of State Thomas Jefferson to United States Attorney for Massachusetts Christopher Gore as found in Volume V, Part 2 (Letters and Papers Relating to the Constitution, from August 1, 1788 to death of Madison; Appendix; Bibliography), pages 244-245 in *Documentary History of the Constitution of the United States of America, 1786-1870*, Volume I (published 1894), Volume II (published 1894), Volume III (published 1900), Volume IV (published 1905) and Volume V (Published 1905), published by the United States Department of State, Washington: Government Printing Office (now a public domain book available on the internet at: [catalog.hathitrust.org/Record/001141005](http://catalog.hathitrust.org/Record/001141005)).

Photo real copy of actual Thomas Jefferson's Official "Ratification Counting Chart", Text version of March 2, 1792 Circular Letter to Governors, and 11 page printed enclosure advising the State's of the ratifications as reported to the Secretary of State without commentary, comment, or "certification" as to which articles of amendment were deemed as having been ratified. (Original in National Archives).

Excerpts from *The United States Statutes at Large* (1846) published privately (but Federal Government authorized) by Little Brown & Co., Boston, Massachusetts, Edited by Richard Peters, Esq.

- *Chapter XIV – An Act to provide for the safe-keeping of the Acts, Records and Seal of the United States, and for other purposes* (Approved: September 15, 1789), codified as of 1846 at 1 Stat. 68 (1789).
- The “Bill of Rights” codified as of 1846 at 1 Stat. 97 (1789) (*\* Undated, but “approved” September 25, 1789, and “signed as engrossed” September 28, 1789.*)

Excerpts from *Journal of the House of Representatives, First Session of the First Congress*, in the version as commercially published (but Federal Government authorized) by Gales & Seaton, Washington (1826).

- Friday August 21, 1789
- Thursday September 24, 1789

Excerpt from *Annals of Congress – House, for the First Session of the First Congress*, in the version as commercially published (but Federal Government authorized) by Gales & Seaton, Washington (1834), “Compiled from Authentic Materials, By Joseph Gales, Senior.

- Thursday September 24, 1789

## INTRODUCTION:

The manner in which the two Brief's submitted by the collective Appellees respond to the substantive factual and legal claims at issue in this case, and how they seek to frame the argument here at what is already the Appellate level, is perhaps the best argument *in support* of Appellant's appeal seeking a reversal (or "overruling") of the District Court's *sua sponte* dismissal under *F.R.Civ.P.* 12(b)(6).

The District Court *sua sponte* dismissed the case in total. This was done without the District Court Judge so much as considering, or for that matter even acknowledging, the historically factual and legal arguments brought forward by Appellant – albeit now 220 years after the fact - regarding (1) the historically true but unreported ratification of Article the First by the Connecticut Legislature in May 1790 and the Kentucky State Legislature on June 27, 1792, and (2) the previously “not understood” substance *and perhaps* historical and legal significance of the official government “Jefferson to Gore Letter” of August 8, 1791 regarding the Constitution's Article V's “three fourths” standard. In so doing, the District Court stated its own myopic view of history by stating that “...the long standing principles establishing representation in our republican form of government have been thoroughly evaluated since the Constitutional Convention.” (Emphasis added). (*See* A5).

If this case serves to demonstrate anything, it is that our history and the “principles establishing representation” most certainly have *not* been “thoroughly evaluated.” Facts

are facts, and the law is the law, and the unsupportable denial of either or both by one single District Court Judge acting alone certainly should not be allowed to operate to deny Constitutional reality and undisputable historical facts, or more tangibly, to deny Appellant – and the people of the Nation - the fair representation in the United States House of Representatives that the Constitution – by virtue of Article the First and the standards articulated at Line 3 of that Amendment – guarantee. So Appellant appealed.

Now, 7 months after this time sensitive case was first filed in the District Court, and with the November 2012 General Election fast approaching, the Appellees here are now forced to acknowledge that which the one District Court Judge below was not willing to: That Appellant “...appears to be correct...” (A.G. Brief at 21) and that Appellant’s “... history is correct ...[.]” (Speaker’s Brief at 45).

Surely then Appellant has stated a *prima facie* case, which is all that is required to defeat a *F.R.Civ.P.* 12(b)(6) District Court dismissal. Surely the historical and factual revelation that a Constitutional amendment validly proposed by Joint Resolution of Congress to the State Legislature’s for ratification 220 years ago (back in September 1789) has indeed been ratified and consummated into permanent Federal Constitutional Law, a Constitutional Amendment which has never been acknowledged as such, but which is indeed valid and which indeed renders the 2010 Decennial Apportionment unconstitutional, is a factual and legal *claim* entitled to an Article III forum within which Appellant has the right to build a record and make a case that his claims are factually and

historically true and legally correct. And in this regard, there can not be any reasonable dispute that Appellant individually has the requisite Article III standing – and therefore the clear right - to bring such a legal claim as a *litigant* in an Article III forum. *See Department of Commerce v. United States House of Representatives*, 525 U.S. 316 (1999).

In this appeal, however, rather than concede that Appellant has Article III standing and concede that Appellant’s factual and legal claims are worthy of review and that the District Court below was in error, rather than concede that Appellant is legally entitled to build a record and have these factual and legal claims considered, the collective Appellees still urge this Appellate Court to deny Appellant his day in Court and affirm the District Court’s *sua sponte* dismissal. And they do so by making a *substantive* argument to this Appellate Court that is really a legal argument that should ordinarily or more properly be made before or in or to the statutory three Judge Court that Appellant was denied!

It is argued (though not specifically stated as such) that despite admitting that Appellant is actually “correct” with pretty much everything he alleges, that Appellant *still* does not state a claim for *F.R.Civ.P.* 12(b)(6) purposes. Why? Because Appellees claim that Article the First does not *mean* what Appellant says it means.

The A.G. Brief states their argument and seeks to frame what they themselves claim is the determinative issue in this case as follows:

Article the First, contrary to plaintiff's contentions, neither proposed nor created a "mandatory ratio" of Representatives to district population and thus provides no support of plaintiff's contentions. The last clause of this complexly worded amendment would have, once the House reached a size of 200, set a constitutional minimum for the House (at 200), and reduced the constitutional maximum from the one to-30,000 ratio specified in Article I, sec. 2 of the original Constitution to a ratio of one to 50,000. See Akhil Reed Amar, *The Bill of Rights: Creation and Reconstruction* 15 (1998); *Clemons*, 710 *F.Supp.2d* at 579-80.

\* \* \*

...Plaintiff's challenge ... therefore does not support his contention that the House must consist of a minimum of 6,163 Representatives.

[A.G. Brief at 17-18.]

Similarly, the Speaker's Brief argues that ... "[i]n short, even if Mr. LaVergne's history is correct his legal analysis is not ..." ... [because] ...

"Article the First", had it been ratified, merely would have adjusted the ...maximum number of Representatives from one Representative for every 30,000 persons, to one Representative for every 50,000 persons.

[Speaker's Brief at 45-46].

Appellant contends that Article the First in application today fixes a mandatory *maximum* ratio, a "ceiling", of *no more* that 1 Representative apportioned for every 50,000 people. If Appellant is "correct", then the 2010 Decennial Apportionment is indeed unconstitutional.

Conversely Appellees contend that Article the First in application today fixes a *minimum* ratio, a "floor", of *no less* that 1 Representative for every 50,000 people, and

that even though Article the First was (or may have been) consummated into permanent Federal Constitutional Law, the 435 Representatives apportioned among the 50 States in the 2010 Decennial Apportionment, by coincidence or happenstance, still results in a ratio that is in excess of the *minimum* ratio, or “floor” of 50,000 people.

Appellant and Appellees can not both be “correct” in their interpretations of the text and meaning of Article the First as applied today. Someone is wrong. That “someone” is Appellees. As will be shown, it is Appellant that is once again “correct”, this time on the *meaning* of Line 3 of the text of Article the First. And after reading this Reply Brief Appellees will reluctantly be forced once again to agree that Appellant is “correct”. At that point this Article III Court will then have to decide what to do about the reality of a valid and operative 220 year old Constitutional Amendment which clearly renders the 2010 Decennial Apportionment unconstitutional.

At this point, this case can really be reduced to the following two questions:

1. *Was Article the First ratified and consummated into permanent Federal Constitutional Law? (YES).*
2. *What does Article the First mean, or more specifically, what does Line 3 (what the AG Brief refers to as “clause 3”), the Last Line of Article the First, mean? (ARTICLE THE FIRST MEANS EXACTLY AND ONLY WHAT APPELLANT SAYS IT MEANS).*

**POINT I:**

**FIRST THINGS FIRST: ARTICLE THE FIRST WAS RATIFIED AND CONSUMATED INTO PERMANENT FEDERAL CONSTITUTIONAL LAW BY THE CONSTITUTION'S ARTICLE V'S STANDARDS DURING 1789-1792:**

So there be no confusion whatsoever on the threshold issue of *whether* Article the First was actually ratified and consummated into permanent Federal Constitutional Law by the Constitution's Article V's standards during the process of 1789-1792, and even though this issue is all but conceded by Appellees to be true, Appellant herein specifically lists the ratification actions by the 12 State's Legislatures that ratified Article the First between 1789-1792, the year, month and date of which this Article III Court is, pursuant to *Dillon v. Gloss*, 256 U.S. 368 (1921), required take judicial notice of:

**New Jersey -** State Legislature ratified Article the First on **November 20, 1789** (*See Documentary History of the Constitution of the United States of America, 1786-1870*, Volume I (published 1894), Volume II (published 1894), Volume III (published 1900), Volume IV (published 1905) and Volume V (Published 1905), published by the United States Department of State, Washington: Government Printing Office (now a public domain book available on the internet at: [catalog.hathitrust.org/Record/001141005](http://catalog.hathitrust.org/Record/001141005)), hereinafter referred to simply as "*Secretary of State Documentary History*", at Volume II page 325-329).

**Maryland -** State Legislature ratified Article the First on **December 19, 1789** (*See Secretary of State Documentary History* at Volume II page 330-334).

**NOTE:** *North Carolina ratifies the Constitution at convention and is formally admitted as the 12<sup>th</sup> State in the Nation effective November 21, 1789.*

**North Carolina -** State Legislature ratified Article the First on **December 22, 1789** (*See Secretary of State Documentary History* at Volume II page 335-339).

**South Carolina -** State Legislature ratified Article the First on **January 19, 1790** (*See Secretary of State Documentary History* at Volume II page 340-344).

**New Hampshire -** State Legislature ratified Article the First on **January 25, 1790** (*See Secretary of State Documentary History* at Volume II page 345-346).

**New York -** State Legislature ratified Article the First on **February 24, 1790** (*See Secretary of State Documentary History* at Volume II page 357-362).

**Connecticut -** State Legislature ratified Article the First at the "**May 1790 Legislative Session at Hartford.**" *See "Certified" Copies of Engrossed Resolutions, specifically Engrossed*



*Resolution confirming ratification of Article the First by the State House of Representatives at the October 1789 Legislative Session at New Haven, and Engrossed Resolution confirming ratification of Article the First by the State Council at the May 1790 Legislative Session at F.R.A.P. 28(f) attachments.*

**NOTE:** *Rhode Island ratifies the Constitution at convention and is formally admitted as the 13<sup>th</sup> State in the Nation effective May 29, 1790 .*

**Rhode Island -** State Legislature ratified Article the First at “**June Session, A.D. 1790**” (See *Secretary of State Documentary History* at Volume II page 363-366).

**NOTE:** *Vermont is formally admitted as the 14<sup>th</sup> State in the Nation effective March 2, 1791.*

**Pennsylvania -** State Legislature ratified Article the First on **September 21, 1791** (See *Secretary of State Documentary History* at Volume II page 367-370).

**Virginia -** State Legislature ratified Article the First on **November 3, 1791** (See *Secretary of State Documentary History* at Volume II page 385-386).

**Vermont -** State Legislature ratified Article the First on **November 3, 1791** (See *Secretary of State Documentary History* at Volume II page 373-376).

**NOTE:** *As of November 3, 1791, the Legislatures of 11 of the then 14 States had effectively ratified Article the First by the Constitution’s Article V’s standards therefore consummating Article the First into permanent Federal Constitutional Law.*

**NOTE:** *Kentucky is formally admitted as the 15<sup>th</sup> State in the Nation effective June 1, 1792.*

**Kentucky -** State Legislature ratified Article the First on **June 27, 1792.** See “*Certified Copy*” of *Engrossed Resolution of June 27, 1792 and text re-print at F.R.A.P. 28(f) attachments.*

**NOTE:** *As of June 27, 1792, the Legislatures of 12 of the now 15 States had effectively ratified Article the First by the Constitution’s Article V’s standards therefore (and again) consummating Article the First into permanent Federal Constitutional Law.*

The collective Appellees can not legitimately dispute that when the legal standards are applied to the undisputed historical facts that the actions of the Connecticut State Legislature and the Kentucky State Legislature meet the Constitution’s Article V’s standards for “final” ratification of Article the First. There also can be no question but that that ratification by 11 State Legislatures out of the then 14 States, or ratification by 12 State Legislatures of the then 15 State , meets or exceeds the “three fourths”

requirement of the Constitution's Article V thereby effectively automatically consummating Article the First into permanent Constitutional Law, albeit 220 years ago.

**POINT II:**

**APPELLANT IS "CORRECT": ARTICLE THE FIRST AT LINE 3 OPERATES TO FIX A PERMENANT MAXIMUM RATIO OF REPRESENTATIVES TO PEOPLE AND TO CONSTITUTIONALLY GUARANTEE THAT THERE WILL NEVER BE A RATIO THAT EXCEEDS A MAXIMUM OF 1 REPRESENTATIVE FOR EVERY 50,000 PEOPLE IN THE NATION:**

The literal text of Article the First as originally proposed and approved by a 2/3 vote in the House of Representatives on August 21, 1789, and as ultimately concurred in and approved as "final" by a 2/3 vote in the Senate a month later on September 21, 1789 (after a failed attempt by the Senate to have the House concur in a proposed differing version of Article the First), contained 3 "Lines" (or as the A.G. says, 3 "clauses"). Even Appellees must acknowledge that there can be no dispute that prior to September 24, 1789 the word "more" did not appear anywhere in the entirety of the text of Article the First. Appellees must further acknowledge that prior to September 24, 1789 the word "less" appeared in 4 locations in the text of Article the First: Twice in Line 2, and twice in Line 3. The "final" approved text was as follows:

After the 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

less than one representative for every fifty thousand persons.  
(Emphasis added).

[See *Journal of the House* for August 21, 1789 at *F.R.A.P.* 28(f) addendums].

As can clearly be seen, the 3 Lines (or “clauses”) were part of a related progression or series or sequence of text, which when read *im pari materia* is easily and clearly understood from reference to the actual verbatim text of the 3 Lines themselves:

[LINE 1]: After the 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 ...

[LINE 2]: ... 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;

[LINE 3]: ... after which the proportion shall be so regulated that there shall not be less than two hundred representatives nor less than one representative for every fifty thousand persons.

[(Emphasis added), *see Id.*].

The defined ratio progression based upon population increases was simple, logical and easy to follow: When at Line 1: 1 / 30,000 specifically stated as the ratio until there were 100 Representatives, then at Line 2: Never less than 100 Representatives and a “new” ratio of a *minimum “floor”* of 40,000 and a maximum “ceiling” of 50,000 until there were 200 Representatives, and then at Line 3: Never less than 200 Representatives and a *permanent maximum “ceiling” ratio* of *never more* than 1 Representative for every

50,000 people. Both Appellant and Appellees must agree on the history, at least to this point.

As written, Article the First served to take away Congress' discretion and operated to set a Constitutionally fixed and specifically stated formula to determine the size of the House by setting ranges for ratios in a series of three stages described in 3 Lines. Article the First by operation guaranteed constant and perpetual growth in the size of the House of Representatives as the Nation's population inevitably increased. Once at Line 3, there could never be less than 200 Representatives, and the ratio of Representatives to people could *never be higher* than a ratio 1 Representative for every 50,000 people. Even Appellees acknowledge this to be unquestionably true as to what Article the First meant, and how Article the First operated over time, in original form.

**A. THE LAST MINUTE “LESS” TO “MORE” CHANGE  
RECOMMENDED IN THE SEPTEMBER 24, 1789 JOINT  
CONFERENCE COMMITTEE FINAL REPORT THAT WAS  
ADOPTED BY CONGRESS:**

Where the Appellee and Appellant part ways and cease to agree on the history and the text and meaning of Article the First is centered around the so called last minute “less” to “more” one word change in the text of Article the First initially suggested in a Final Joint Conference Committee Report dated September 24, 1789. This Final Joint Conference Committee Report made several recommended changes at various places to the 12 Articles of Amendment, and indeed included a recommendation that the word “less” to “more” be made in Article the First. It was the recommendation of this Final

Joint Conference Committee Report that was adopted as *the* final change to the text of Article the First, in the House on September 24, 1789, and in the Senate on September 25, 1789. As noted, prior to this so called last minute change, the word “less” appears 4 times in the text of Article the First, and the word “more” did not appear in the text anywhere. So exactly which “less” out of the 4 was directed to be changed to “more” in the Joint Conference Committee Final Report that was adopted by Congress? This specifically is the issue that the parties disagree on.

Appellees claim that this last minute “less” to “more” change was made by Congress in Line 3 (the “Last” Line), or more specifically the last place the word “less” appeared in Line 3, or otherwise described as the last place the word “less” appears in the Last Line. Appellees further contend that this one word change converted what was always to that point a *maximum* ratio and a “ceiling” at Line 3, to what was suddenly now to be a *minimum* ratio and a “floor” that operated such that once there were 200 Representatives, Congress could fix the size of the House and the ratio of Representatives to people at any size that they wanted, as long as the total size of the House was at least 200, and as long as the ratio was greater than 1 Representative for every 50,000 people. Under Appellees’ view, as now “changed”, Line 3 would never Constitutionally permit a ratio as small as 1 Representative for every 49,999 people, whereas a ratio of 1 Representative for every 2 million people would indeed be permitted, with both the size and ratio of Representatives to people left to the total discretion of Congress to decide.

Appellees self serving view of history is quite frankly utter nonsense and not what happened at all. Appellees are simply incorrect. Congress never made any last minute change whatsoever in Line 3: The last minute “less” to “more” change was made by Congress in Line 2.

**B. WHAT THE FINAL JOINT CONFERENCE COMMITTEE REPORT REALLY SAID AND THE “LESS” TO “MORE” CHANGE THAT CONGRESS REALLY APPROVED:**

Attached hereto as an *F.R.A.P.* 28(f) addendum is an actual copy of the actual September 24, 1789 Joint Conference Committee Final Report (original on file in the National Archives), as well as a text version of the Joint Conference Committee Final Report as reprinted at page 50 in the commercially published *Creating the Bill of Rights – The Documentary Record from the First Federal Congress*, edited by Helen E. Veit, Kenneth R. Bowling, and Charlene Bangs Bickford, John Hopkins University Press, Baltimore Maryland (1991).

The one “original” Joint Conference Committee Final Report, written out in longhand by Senator Oliver Ellsworth of Connecticut with pen and ink on parchment, was shared and used by and between both the House (on September 24, 1789) and the Senate (on September 25, 1789) when adopting as final the recommendations. It is the recommendations in **THIS** Joint Conference Committee Final Report which were adopted as the final changes to the text of the 12 proposed Articles of Amendment, including the “less” to “more” change in Article the First. As can easily be seen, the

Final Report is clear in what it says, and is clear *where* the recommended change (or rather “exchange”) of the word “less” to “more” was directed to have been made by Congress: In Line 2! As the actual Final Report clearly states:

\* \* \*

The Committees were also of opinion it would be proper for both Houses to agree to amend the First Article, by striking out the word “*less*” in the *last line but one*, and inserting in its place the word “more”, and accordingly recommend that the said Article be reconsidered for that purpose. (Emphasis added).

[*See Id.*].

The use of the phrase “last ... but one” by Senator Ellsworth to describe *where* to change “less” to “more” in the text of Article the First, was (and is) a commonly understood synonym phrase for specifically describing what is otherwise known as the “penultimate” line. The Oxford English Dictionary specifically defines the word “penultimate”, when used to describe something, and when used as an adjective, as follows:

\* \* \*

B. *adj.* 1. Last but one in a series of things, second last.

[Oxford English Dictionary, page at *F.R.A.P.* 28(f) addendum].

Article the First was and indeed is a “series of things”, a series of 3 Lines (or as the A.G. Brief described, 3 “clauses”). The descriptive phrase “last line *but one*” certainly *does not* and indeed could never be accurately construed to refer to the “last line”, but clearly refers to the “*last line but one*”, or in this case, Line 2, *the second to last* in the

series of three Lines! And Line 2 was where all voting members in the House and Senate (or at least those still paying close attention) understood and approved where the “less” to “more” change was to be made, and where the “less” to “more” change was directed to be made in the “final” the version of the text of Article the First.<sup>1</sup> It really is that simple.

It is known that some time after September 25, 1789 and before the end of the day on September 28, 1789 that 3 Engrossing Clerks consolidated all of the final changes to the text of the 12 Articles of Amendment and the “Preamble” into what were 14 “copies” of the Joint Resolution, what today is commonly referred to as the “Bill of Rights.” The odd fact of history is that the “Bill of Rights”, like the Constitution that it amended (*see* “Our Forgotten Constitution: A Bicentennial Comment”, by Akhil Reed Amar, 97 *YaleL.J.* 281 (December 1987)), was never at any time actually ever reduced to one single “final and official, voted on and approved” document. Rather, what the House and Senate voted on in final form was actually a combination of several separate documents, including a printed Senate “broadside” marked up with pen and ink reflecting changes

---

<sup>1</sup> During the Joint Conference Committee process, apparently someone on the Conference Committee noticed what was a flaw in the text and language of “Article the First” in *Line 2*. With use of the word “less” at Line 2, the 40,000 was a “ceiling” ratio when in fact the 40,000 was actually intended to be “floor” ratio, so that at line 2 the ratio would be between 40,000 and the upper limit of 50,000, but not less. These were smart men, and they quickly realized that this difficult to spot “error” or “flaw” in the language at Line 2 could easily be corrected with a simple exchange of the word “less” in Line 2 to the word “more” in Line 2. Which is exactly what the September 24, 1789 Final Joint Committee Report recommended, and is exactly what the House and Senate approved. Contrary to Appellees misunderstanding of history, there never was any change of “less” to “more” in Line 3: The change was in Line 2.



which were approved, to be considered in consort with the changes as directed to be made in the adopted Joint Conference Committee Final Report. During the 3 day ministerial process of preparing the 14 “copies” as the First Session of the First Congress was ready to adjourn, the 3 Engrossing Clerks wrote down the text as they were told to by House Clerk John Beckley. The process as described was as follows:

William Lambert, Benjamin Bankson, and an unknown third clerk penned copies: one for each of the eleven states, two others for Rhode Island and North Carolina, and another for the federal government. They stooped over parchments in Federal Hall, in lower Manhattan, writing fluidly in black iron-gall ink.

Senate President John Adams and House Speaker Frederick Muhlenberg signed each copy. On October 2, 1789, presidential secretary William Jackson penned cover letters to each state’s governor, and George Washington signed them.

[*Lost Rights – The Misadventures of a Stolen Relic*, by David Howard, Houghton Mifflin Harcourt, Boston & New York (2010) at page 16].

The 13 “copies” were then mailed out, and 1 “copy” was retained by the new Federal Government, originally on file with the Secretary of State’s Office, and today on perpetual exhibit at the National Archives. However, unnoticed at that time was the fact that some, or perhaps even all, of the 14 “copies”, contained a “Clerk’s Mistake” that had been converted into a “Scrivener’s Error” in Line 2 and Line 3 of Article the First that went unnoticed.

**C. EVEN WITH THE “CLERK’S MISTAKE” AND “SCRIVENER’S ERROR” THAT EXISTS IN SOME OR ALL OF THE 15 “COPIES” OF THE BILL OF RIGHTS, LINE 3 OF ARTICLE THE FIRST STILL OPERATES AS A *MAXIMUM* RATIO:**

It is today known to a certainty that the Federal Government’s “copy” of the “Bill of Rights”, now on permanent display in the National Archives, contains a “Scrivener’s Error” in Lines 2 and 3 of the actual literal text of Article the First. This ultimately over time lead to the “Scrivener’s Error” being republished and perpetuated more than 50 years later in 1846 when the privately published but Government authorized *The United States Statutes at Large* were published by Little, Brown & Co. of Boston. This historically inaccurate version of text is what all Appellees cite to (the A.G. Brief *incorrectly* so as “*Res. 3*” before 1 *Stat.* 97 (1789)) as support for their argument.

Despite the clear direction in the Joint Conference Committee Final Report as to where the change was to be made, House Clerk John Beckley chose a short cut and chose to paraphrase in the *House Journal* where the change was to be made. And in doing so Beckley incorrectly reported where the change was to be made, inaccurately reporting that: “...the first article be amended by striking out the word “less” ***in the last place of the said first article***, and inserting in lieu thereof the word “more”. (Emphasis added). See *House Journal* of September 24, 1789 at *F.R.A.P.* 28(f) attachments. All one has to do is *read* the actual original Joint Conference Committee Final Report to see that House Clerk Beckley’s subsequent description in the *House Journal* of where Congress specifically directed and ordered House Clerk Beckley to make the “less” to “more”

change is inaccurate and “wrong”, and that such an inaccurate and “wrong” description would lead the Engrossing Clerks to mistakenly change the word “less” to “more” in line 3, and not in Line 2 where Congress actually directed the change to be made. Which is *exactly* what ultimately happened.

House Clerk Beckley indeed provided this incorrect information to the 3 Engrossing Clerks who in turn unknowingly made the change in the wrong Line in Article the First. When the 14 “copies” were signed on September 28, 1789 nobody noticed, and hence the “mistake”, or “Scrivener’s Error”, in Line 2 and Line 3 of Article the First that can be seen in the Federal Government’s “copy” in the National Archives. It is honestly not known whether this “Scrivener’s Error” was made in all or only some of the original 14 “copies”. It is known that the “Delaware Copy” contains the “Scrivener’s Error” in Lines 2 and Line 3 of Article the First. It is also known that the “Scrivener’s Error” appears in Line 2 and Line 3 the “15<sup>th</sup> Vermont Copy” of the Bill of Rights that was prepared and certified and signed by Secretary of State Thomas Jefferson in February 1791 and then sent on by him just prior to March 2, 1791, to the Vermont Legislature for their consideration for ratification. *See* document at *F.R.A.P.* 28(f) addendum. This is of course because this “15<sup>th</sup> Vermont Copy” of the Bill of Rights was an exact recitation, word for word, of the text of the Federal Government’s “copy”, which including the “Scrivener’s Error” in Line 2 and Line 3 of Article the First, so the mistake was perpetuated by unknowing republication.

The “Scrivener’s Error” in Line 2 and Line 3 of Article the First, even if it were to exist in most or all of the 14 “copies” which were sent to the States for ratification and voted on for ratification, would have no practical affect on the meaning and interpretation and application of Article the First as ratified today. Even with a text that erroneously includes the word “more” in Line 3, the weight of authority (including a Federal Government entity party to this case!) all still reasonably interpret Line 3 as creating a permanent maximum “ceiling” ratio. *See e.g.* “The National Archives Presents the ORIGINAL Bill of Rights – with 12 Amendments!”, December 7, 2010 (National Archives Official Press Release) (copy found at *F.R.A.P.* 28(f) attachments); “The Telling Tale of the Twenty Seventh Amendment: A Sleeping Amendment Concerning Congressional Compensation is Later Revived”, by John W. Dean, Friday September 27, 2002, in FindLaw® Writ (<http://writ.news.findlaw.com/dean/20020927.html>) (copy found at *F.R.A.P.* 28(f) attachments); *see also generally* “Congress Backs 27<sup>th</sup> Amendment”, by Richard L. Berke, *New York Times*, May 21, 1992 ([www.nytimes.com/1992/05/21/us/congress-backs-27th-amendment.html](http://www.nytimes.com/1992/05/21/us/congress-backs-27th-amendment.html)); “The Role of Electoral Accountability in the Madisonian Machine”, by Christopher M. Straw, 11 *N.Y.U.Legis.&Pub.Pol’y* 321 (2008); *Proposed Amendments to the Constitution of the United States 1789-1889*, by Herman Ames, Lenox Hill Publishing, New York, New York (1896); *Government in England and America*, by S.M. Johnson, Carelton, New York, New York (1864); *History of the United States 1783-1801*, by James Schouler,

Dodd, Mead & Co., New York, New York (1880); and *The Birth of the Bill of Rights, 1776-1791*, by Robert Allen Rutland, Northeastern University Press, Boston, Massachusetts (1955). On the other hand, the limited authorities (none of which are binding on this Court) that posit otherwise, do so by – just as the Appellees do here – relying upon the mistaken historical factual belief that the last minute “less” to “more” change was made by Congress in Line 3. See e.g. *Clemons v. United States Department of Commerce*, 710 *F.Supp.2d.* 578, 580 (N.D. Miss. 2010) (3 Judge Court); “House of the Rising Population: The Case for Eliminating the 435 – Member Limit on the U.S. House of Representatives”, by Byron J. Harden, 51 *Washburn Law Journal* 73 (2012); *The Bill of Rights: Creation and Reconstruction*, by Reed Akhil Amar, Yale University Press, New Haven, Connecticut (1998); and “The Minimum and Maximum Size of the U.S. House of Representatives (Quantitative Historical Analysis #4)”, by Jeff Quidam, © 2007 thirty-thousand.org.

Moreover, even Amar and Quidam note in detail how Congress’ ostensibly changing “less” to “more” at Line 3 created what was a mathematical impossibility for Constitutional compliance at Line 3. With *both* the 200 minimum size requirement and (what they thought was) the 50,000 *minimum* “floor” ratio requirement, once the National population reaches 8,000,001 it would be mathematically impossible to comply with *both* requirements until the Nation’s population exceeded 10 million. However, all who have read this far now know that Congress did not destroy Article the First by at the last

minute creating a mathematically impossible Constitutional standard at Line 3, because there never was any change at Line 3. House Clerk Beckley simply made a mistake.

### **CONCLUSION:**

On February 15, 1791, then Secretary of State Thomas Jefferson wrote a formal legal opinion for President George Washington regarding his views on the legality and Constitutionality of the proposed National Bank, and in so doing noted the following principle of law still followed today:

It is an established rule of construction, where a phrase will bear either of two meanings, to give it which will allow some meaning to the other parts of the instrument, and not that which will render all the others useless.

[See Copy of Original Letter and Text version at F.R.A.P. 28(f) attachments].

All that need be done is apply this timeless common sense standard to the facts of this case. Even with the “Clerk’s Mistake” and the “Scrivener’s Error” that exists in some or all of the 15 “copies” of the Bill of Rights, Line 3 of Article the First was always intended, was always understood, and indeed reasonably operates as a *maximum* ratio of Representatives to People. As Appellant has demonstrated that Article the First has been ratified and consummated into permanent Federal Constitutional Law, and as Appellant has further conclusively demonstrated that Line 3 of Article the First created a permanent *maximum* “ceiling” ratio that operates to Constitutionally guarantee that no 1 Representative will ever be permitted to represent *more than* 50,000 people, there is no question that the 2010 Decennial Apportionment of the House of Representatives is

unconstitutional as clearly violating the clear and unambiguous standards of Article the First. As such, Appellant has demonstrated that the District Court below was in error and this Article III Court must immediately Order an adequate remedy.

**Respectfully submitted,**



**EUGENE MARTIN LaVERGNE**

***Pro Se* Appellant**

©/2012

**COMBINED CERTIFICATIONS:**

**EUGENE MARTIN LaVERGNE**, *Pro Se* Appellant, hereby certifies as follows:

1. **BAR MEMBERSHIP.** I am a member in good standing of the Bar of the Third Circuit Court of Appeals. I note that I am presently administratively temporary suspended from the practice of law by the State of New Jersey. I am representing myself *pro se* as the actual party Appellant in this case, and as such both as a member of the Bar of this Court in good standing and as a private citizen litigant I have the right to proceed with my claims in this Court and to represent myself *pro se* when doing so.
  
2. **WORD COUNT:** The word count in this Reply Brief complies with the Federal Rules of Appellate Procedure and the Third Circuit Local Appellate Rules.
  
3. **SERVICE UPON COUNSEL:** Copies of this Reply Brief and *F.R.A.P.* 28(f) Addendum are being served simultaneous to the filing with the Third Circuit Clerk upon the following as per Federal Rules of Appellate Procedure and the Third Circuit Local Appellate Rules :

**Kerry W. Kircher, *General Counsel***  
**William Pittard, *Deputy General Counsel***  
**Christine Davenport, *Sr. Assistant Counsel***  
**Kristen W. Konar, *Assistant Counsel***  
**Todd B. Tatelman, *Assistant Counsel***  
**Mary Beth Walker, *Assistant Counsel***  
**OFFICE OF THE GENERAL COUNSEL**  
**U.S. HOUSE OF REPRESENTATIVES**  
**219 Cannon House Office Building**  
**Washington, D.C. 20515**  
***Counsel for Appellees John A. Boehner and Karen L. Haas***

And



**Stuart F. Delery, *Acting Assistant Attorney General***  
**Paul J. Fishman, *United States Attorney***  
**Michael S. Raab, *Attorney, Appellate Staff, Civil Division***  
**Henry C. Whitaker, *Attorney, Appellate Staff, Civil Division***  
**UNITED STATES DEPARTMENT OF JUSTICE**  
**950 Pennsylvania Avenue N.W.**  
**Washington, D.C. 20530-0001**  
***Counsel for Appellees John Bryson, John Grover, Daniel Inouye,***  
***Joseph Biden and David Ferriero***

4. **IDENTICAL COMPLIANCE OF BRIEFS:** The original and nine (9) paper copies (total 10) of the Reply Brief and *F.R.A.P.* 28(f) Addendum are all identical and are identical to the version of each that is being filed electronically with the Court.
  
5. **VIRUS CHECK.** The PDF papers electronically filed have been checked with McAfee® and are clear of any virus.

**I DECLARE AND CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON May 12, 2012.**

**DATED: May 12, 2012**

  
\_\_\_\_\_  
**EUGENE MARTIN LaVERGNE**  
***Pro Se Appellant***  
© 2012

**THE UNITED STATES COURT OF APPEALS**  
*for the*  
**THIRD CIRCUIT**

**No. 12-1171**

---

**EUGENE MARTIN LaVERGNE**, *individually,*

*Appellant,*

**vs.**

**JOHN BRYSON** *in his official capacity as the Secretary of the United States Department of Commerce;* **JOHN GROVER** *in his official capacity as the Director of the United States Census Bureau;* **KAREN L. HAAS** *in her official capacity as the Clerk of the United States House of Representatives;* **JOHN BOEHNER** *in his official capacity as the Speaker of the United States House of Representatives;* **DANIAL INOUYE** *in his official capacity as the President Pro Tempore of the United States Senate;* **JOSEPH BIDEN** *in his official capacity as the President of the Senate, and* **DAVID FERRIERO** *in his official capacity as the Archivist of the United States of America,*

*Appellees.*

---

**F.R.A.P. 28(f) ADDENDUM**

---

“Certified Copy” of engrossed Resolution of the Connecticut State House of Representatives from the October 1789 Legislative Session held at New Haven, Connecticut, formally ratifying “Article the First” (*specifically ratifying Article the First, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh & Twelfth – all except Article the Second*), original on file at the Connecticut State Library and Archives, specifically located there at: *Connecticut Archival Record Group #001, Early General Records, Connecticut Archives Series, Revolutionary War Series I, Volume 37, Document 302A & 302B.*



# STATE OF CONNECTICUT

## CONNECTICUT STATE LIBRARY

231 Capitol Avenue • Hartford, Connecticut 06106-1537



COUNTY OF HARTFORD            )  
   ( ss.  
 STATE OF CONNECTICUT        )

I hereby certify that the document

Connecticut Archival Record Group #001  
 Early General Records  
 Connecticut Archives Series  
 Revolutionary War Series I, Volume 37, Document 302A & 302B

*Differing votes on ratification of amendments to the Constitution  
 proposed by U.S. Congress Mar. 1789. Constitution referred to May  
 Session*

to which this is attached is a true copy of a record turned over  
 to me and on deposit in the State Library in accordance with the  
 provisions of Section 11-4c of the General Statutes, Revision of  
 1958, Revised to January 1, 2012.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the  
 seal of the State Library at Hartford, this March 27, 2012.

Kendall Wiggin  
 State Librarian

per

Mel E. Smith, Librarian II  
 History & Genealogy Unit



The Congress of the United States of America began & holden at the City of New York on the fourth day of March A.D. 1789 having proposed to the Legislatures of the several States certain articles as amendments to the Constitution of the United States;—

This Assembly do ratify as part of said constitution the first, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh & twelfth articles proposed as aforesaid

Witness in the House of Representatives

James Dawson Clerk

In the upper House

The further Consideration of this Bill is referred to the General Assembly of this State, to be holden at Hartford on the 2<sup>d</sup> Thursday of May next

John George Wyllie Secy

And the House of Representatives Mr. Dana & Mr. Ingersoll are appointed a Committee to confer with such Gentlemen on the Hon<sup>ble</sup> Council shall appoint on the differing votes of the House on this Bill

John Vinton Secy

In the upper House

John Chester Esq is appointed to confer with the  
Committee of the House of Representatives on the differing Votes  
of the Houses on the within Bill

Teste George Wyllie's Secy

In the upper House

On Report of the Com<sup>tee</sup> and Resolutions this House  
do adhere to their first Vote on this Bill

Teste George Wyllie's Secy

Bill ratifying Amend.  
ments to Constitution

Oct. 1789

Constitution  
for U.S.  
Constitution  
for U.S.

“Certified Copy” of engrossed Resolution of the Connecticut State Council from the May 1790 Legislative Session held at Hartford, Connecticut, formally ratifying “Article the First” (*specifically ratifying Article the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh & Twelfth - all 12 proposed Articles of Amendment*), original on file at the Connecticut State Library and Archives, specifically located there at: *Connecticut Archival Record Group #001, Early General Records, Connecticut Archives Series, Civil Officers Series II, Volume 22, Document 4A, 4B, 4C & 4D.*





STATE OF CONNECTICUT

CONNECTICUT STATE LIBRARY

231 Capitol Avenue • Hartford, Connecticut 06106-1537



COUNTY OF HARTFORD )
( ss.
STATE OF CONNECTICUT )

I hereby certify that the document

Connecticut Archival Record Group #001
Early General Records
Connecticut Archives Series
Civil Officers Series II, Volume 22, Document 4A, 4B, 4C, & 4D

Assent & ratification of articles one to twelve of the U.S.
Constitution. Differing votes. Referred to Committee, May 1790
Session.

to which this is attached is a true copy of a record turned over
to me and on deposit in the State Library in accordance with the
provisions of Section 11-4c of the General Statutes, Revision of
1958, Revised to January 1, 2012.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the
seal of the State Library at Hartford, this March 27, 2012.

Kendall Wiggin
State Librarian

per

Mel E Smith (handwritten signature)

Mel E. Smith, Librarian II
History & Genealogy Unit



C62-22

Whereas the Senate & House of Representatives  
of the United States of America in Congress  
Assembled on Wednesday the fourth of March  
One thousand seven hundred & eighty nine two  
thirds of both Houses concurring proposed to the  
Legislatures of the several States as amendments  
to the Constitution of the United States the following  
Articles all or any of which Articles when ra-  
tified by ~~the Legislatures~~ three fourths of the said  
Legislatures to be valid to all intents and purposes  
as part of the said Constitution viz

Article the first

After the enumeration required by the first  
article of the constitution there shall be one re-  
presentative 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 <sup>be</sup> not be less than one hundred repre-  
sentatives nor less than one representative for every  
forty thousand persons until the number of re-  
presentatives 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

for every fifty thousand persons

46

Article the Second

No Law varying the compensation for the services of the Senators & Representatives shall take effect until an election of Representatives shall have intervened

Article the Third

Congress shall make no law respecting an establishment of Religion or prohibiting the free exercise thereof or abridging the freedom of speech, or of the press; or the right of the <sup>People</sup> peaceably to assemble and to petition the government for a redress of grievances

Article the Fourth

A well regulated Militia being necessary to the security of a free State the right of the people to keep & bear arms shall not be infringed

Article the Fifth

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

Article the Sixth

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

Article

Article the Seventh

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

Article the Eighth

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

Article the Ninth

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

Article the Tenth

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

Article

4d

Article the Eleventh

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

Article the Twelfth

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

This Assembly do assent to & ratify as part of the said constitution all the Articles proposed as afore-  
said

Done in the upper House  
This George Wythe Secy  
in the House of Representatives  
Jeff. W. Cary Clerk

In the upper House

Roger Newberry Esq. is appointed to confer with such gentlemen as may be appointed by the House of Representatives on the differing votes of the Houses on this Bill.

In the House of Representatives

On Report of Committee of Unconsideration

This House do adhere to their former vote  
Jeff. W. Cary Clerk

“Certified Copy” of engrossed Resolution of the Connecticut State House of Representatives from the May 1790 Legislative Session held at Hartford, Connecticut, purporting to now “rescind” or “repeal” by omission the earlier Fall 1789 ratification by an earlier seated House of Representatives of Article the First by now purporting to only agree to ratify Articles 3 through 12 (*specifically now excluding Article the First and the Second, a new position by a new (second) House of Representatives that the same continuing Connecticut State Council steadfastly refused to concur in or allow*), original on file at the Connecticut State Library and Archives, specifically located there at: *Connecticut Archival Record Group #001, Early General Records, Connecticut Archives Series, Revolutionary War Series I, Volume 37, Document 302A & 302B.*



# STATE OF CONNECTICUT

## CONNECTICUT STATE LIBRARY

231 Capitol Avenue • Hartford, Connecticut 06106-1537



COUNTY OF HARTFORD            )  
   ( ss.  
 STATE OF CONNECTICUT        )

I hereby certify that the document

Connecticut Archival Record Group #001  
 Early General Records  
 Connecticut Archives Series  
 Civil Officers Series II, Volume 22, Document 3A & 3B

*Assent & ratification of articles three to twelve of the U.S.  
 Constitution. Differing votes. Referred to Committee, May 1790  
 Session.*

to which this is attached is a true copy of a record turned over  
 to me and on deposit in the State Library in accordance with the  
 provisions of Section 11-4c of the General Statutes, Revision of  
 1958, Revised to January 1, 2012.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the  
 seal of the State Library at Hartford, this March 27, 2012.

Kendall Wiggin  
 State Librarian

per

Mel E. Smith, Librarian II  
 History & Genealogy Unit



CO2-22

The Congress of the United States began  
and holden at the City of New York,<sup>3a</sup>  
on wednesday, the fourth of March, one  
thousand, seven hundred and eighty-  
nine, having proposed to the Legislatures  
of the Federal States certain articles  
as amendments to the Constitution of the  
United States —

This Assembly do assent to and  
ratify as part of said Constitu-  
tion — the third, fourth, fifth,  
sixth, seventh, eighth, ninth, tenth,  
eleventh and twelfth articles pro-  
posed as aforesaid

Passed In House of Reps May 18. 1790

Attest SAMUEL W. WALKER Clerk

Deposited to, in the upper House

John George Wyllie, Secy

In the House of Reps

Mej. Phelps, Mark Swift are appointed

a committee to confer with such Gentlemen as the  
Gov. & Council may appoint on the differing votes of

the Bill of 1790



In the upper House  
 Roger Newberry Esq<sup>r</sup> is appointed to confer with the  
 Com<sup>tee</sup> of the House of Representatives in the differing Votes of the Houses  
 on this Bill  
 T. George Wyllie's Secy

In the upper House  
 On Report of the Com<sup>tee</sup> of Conference and Reconsideration  
 This House do adhere to their first Vote on this Bill  
 T. George Wyllie's Secy

Bill ratifying certain  
 amendments to the  
 1800  
 J. L. G.  
 N. H.  
 Com<sup>tee</sup>  
 21  
 21  
 N. H.

“Certified Copy” of engrossed Resolution of the Connecticut State House of Representatives from the October 1790 Legislative Session held at New Haven, Connecticut, purporting to “reject” in total all 12 Articles of Amendment because the Connecticut State Council would not yield on the desire to “rescind” or “repeal” the prior ratification of Article the First (*and by so doing, this yet third House of Representatives was now seeking to completely affirmatively “rescind” or “repeal” all ratifications made at the October 1789 Legislative Session and all ratifications made at the May 1790 Legislative Session, now by purporting to “reject” and refusing to agree to ratify any of the 12 Articles of Amendment, a position by a new (now third) House of Representatives that the same continuing Connecticut State Council still steadfastly refused to concur in or allow*), original on file at the Connecticut State Library and Archives, specifically located there at: “Connecticut Archival Record Group #001, Early General Records, Connecticut Archives Series, Revolutionary War Series I, Volume 37, Document 302A & 302B.”



STATE OF CONNECTICUT

CONNECTICUT STATE LIBRARY

231 Capitol Avenue • Hartford, Connecticut 06106-1537



COUNTY OF HARTFORD )
( ss.
STATE OF CONNECTICUT )

I hereby certify that the document

Connecticut Archival Record Group #001
Early General Records
Connecticut Archives Series
Civil Officers Series II, Volume 22, Document 5A & 5B

Bill rejecting articles of amendment to the U.S. Constitution.
October 1790 Session.

to which this is attached is a true copy of a record turned over
to me and on deposit in the State Library in accordance with the
provisions of Section 11-4c of the General Statutes, Revision of
1958, Revised to January 1, 2012.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the
seal of the State Library at Hartford, this March 27, 2012.

Kendall Wiggin
State Librarian

per

[Handwritten signature of Mel E. Smith]

Mel E. Smith, Librarian II
History & Genealogy Unit



Resolved by this Assembly that the Articles of the  
amendment to the Constitution of the United <sup>States</sup> States proposed to the several Legislatures by the  
Congress of the United States at their Session begun  
and held in the City of New York on Wednesday the  
4<sup>th</sup> day of March one thousand seven hundred  
and eighty nine be, and they are hereby ~~rejected~~  
rejected.

Passed in the House of Representatives  
Tert Leach Clerk

In the upper House

The further consideration of this Bill is referred to the General Assembly  
of this State, to be holden at Hartford on the 2<sup>d</sup> Thursday of May next

Tert George Wyllis Secy

Concurred in the House of Representatives

Tert Leach Clerk

58

1846

di Mammonts de Ho

Expédition

October 1790

P. C. H.

Carton de St.

C. H.

“Certified Copy” of the original engrossed Resolution of the Kentucky General Assembly (the Kentucky State House of Representatives and the Kentucky State Senate) dated June 27, 1792 confirming ratification of “Article the First” (*specifically ratifying Article the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh & Twelfth – all 12 proposed articles of amendment*), original on file at the Kentucky Department for Libraries and Archives, Public Records Division, specifically located there at: “*Governor Shelby’s Enrolled Bills Book 17*”.

I certify that this is an exact photocopy of the original unaltered document which is on deposit at the Kentucky Department for Libraries and Archives, Public Records Division.

Source: Gov. Shelby's Enrolled Bills book 17

Staff Person: Jennifer Patterson

Date: 1/24/12

act of  
June 1792

51

An Act to ratify certain  
Articles in Addition to and  
amendment of the Constitution of  
the United States of America pro-  
posed by Congress to the Legis-  
latures of the several States.



An Act concerning the Treasurer.

Section I. Be it enacted by the General Assembly that the Treasurer for time being shall not be capable of execution the said Office until he hath given bond with such security as shall be approved by the Governor

An Act to ratify certain Articles in addition to and Amendment of the Constitution of the United States of America proposed by Congress to the Legislatures of the several States.

Whereas it is provided by the fifth Article of the Constitution of the United States of America that Congress whenever two thirds of both Houses shall deem it necessary shall propose Amendments to the said Constitution, which shall be valid to all Intents and purposes as part of said Constitution when ratified by the Legislatures of three fourths of the several States.

And whereas at a session of the Congress of the United States begun and held at the city of New York on the fourth Day of March, in the year one thousand seven hundred and eighty nine, it was resolved by the Senate and House of Representatives in Congress assembled, two thirds of both Houses concerning that the following Articles be proposed to the Legislatures of the several States, all or any of which Articles when ratified as aforesaid to be valid to all Intents and purposes as part of said Constitution, to wit;

Article the first

After the first enumeration required by the first Article of the Constitution there shall be one Representative for every thirty thousand, until the Number shall amount to one hundred; after which the proportion shall be so regulated by Congress that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons until the number of Representatives shall amount to two hundred; after which the proportion shall be so regulated by Congress that there shall not be less than two hundred Representatives, nor more than one Representative for every fifty thousand persons

Article 2

receive any money on account of the public, but on warrant or Certificate

act of  
June 1792

Article second

No Law varying the Compensation for the Services of the Senators and Representatives shall take Effect until an Election of Representatives shall have intervened

Article the third

Congress shall make no Law respecting an Establishment of Religion, or prohibiting the free exercise thereof, or abridging the Freedom of Speech, or of the Press, or the Right of the People peaceably to assemble and to petition the Government for a Redress of Grievances

Article the fourth

A well regulated Militia being necessary to the Security of a free State, the right of the people to keep and bear arms shall not be infringed

Article the fifth

No Soldier shall in time of peace, be quartered in any House without the Consent of the owner, nor in time of war but in a manner to be prescribed by Law.

Article the sixth

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

Article the seventh

No person shall be held to answer for a Capital or otherwise infamous crime, unless on a presentment or Indictment of a grand Jury, except in cases arising in the Land or naval Forces, or in the Militia when in actual Service in time of war or public Danger; nor shall any person be subject for the same Offense to be twice put in jeopardy of life or limb; nor shall he compelled in any Criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation

Article the eighth

In all criminal prosecutions the accused shall enjoy the right to a speedy and

An Act concerning the Treasurer

Section I. Be it enacted by the General Assembly That the Treasurer for the time being shall not be capable of executing the said Office until he hath given bond with such security as shall be approved by the Governor with

and public Trial by an impartial Jury of the State and District wherein the crime shall have been committed, which shall be ascertained by Law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of Counsel for his defence

Article the ninth

In Suits at common Law, where the Value in Controversy shall exceed twenty dollars, the right of Trial by Jury shall be preserved, and no Fact tried by a Jury shall be otherwise reexamined in any Court of the United States, than according to the Rules of the common Law.

Article the tenth

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

Article the eleventh

The Enumeration in the Constitution of certain Rights, shall not be construed to deny or disparage others retained by the people

Article the twelfth

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

Be it therefore enacted by the General Assembly, That the foregoing Articles and each of them be, and they are hereby confirmed and ratified.

Approved June 27th 1792  
Isaac Shelby Governor of Kentucky

John Hancock Speaker of the House of Representatives  
Alex. S. Bullitt Speaker of the Senate

receive any money on account of the public, but on warrant or certificate

“Certified Copy” of *The Statute Law of Kentucky*, by William Little, Esq., Volume I (1809), title page and pages 76-78 (Official printed text version of the June 27, 1792 Resolution ratifying all 12 proposed articles of amendment), original on file at the Kentucky Department for Libraries and Archives, Public Records Division, specifically located there at: “*Littell’s The Statute Law of – I*”.

I certify that this is an exact photocopy of the original unaltered document which is on deposit at the Kentucky Department for Libraries and Archives, Public Records Division.

Source: *Littell's The Statute Law of 1*

Staff Person: *Jennifer Patterson*

Date: *1/24/12*

THE  
STATUTE LAW

OF  
KENTUCKY;

WITH NOTES, PRELECTIONS, AND OBSER-  
VATIONS ON THE PUBLIC ACTS.

COMPREHENDING ALSO,

*THE LAWS OF VIRGINIA AND ACTS OF PARLIAMENT  
IN FORCE IN THIS COMMONWEALTH;*

THE CHARTER OF VIRGINIA,  
THE FEDERAL AND STATE CONSTITUTIONS,

AND SO MUCH OF

THE KING OF ENGLAND'S PROCLAMATION IN 1763, AS RE-  
LATES TO THE TITLES TO LAND IN KENTUCKY.

TOGETHER WITH

A TABLE OF REFERENCE TO THE CASES ADJUDI-  
CATED IN THE COURT OF APPEALS.

IN THREE VOLUMES.

BY WILLIAM LITTELL, ESQ.

*SIC VOS NON VOBIS, &c.—VIRGIL.*

VOLUME I.

FRANKFORT, (KEN.)

PRINTED BY AND FOR WILLIAM HUNTER.

1809.

1792  
Commence-  
ment.

directed. And the said office shall be kept where the general assembly hold their session.

SEC. 3. This act shall commence and be in force from the passage thereof.

CHAPTER XII.

*An ACT to ratify certain articles in addition to and amendment of the constitution of the United States of America, proposed by Congress to the Legislatures of the several states.*

Approved, June 27th, 1792.

Another amendment was ratified in 1803, (Vol. III. Chap. 118.)

Preamble.

SECTION 1. WHEREAS it is provided by the fifth article of the constitution of the United States of America, that congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to the said constitution, which shall be valid to all intents and purposes as part of said constitution, when ratified by the legislatures of three-fourths of the several states.

And whereas at a session of the congress of the United States, begun and held at the city of New-York, on the fourth day of March, in the year one thousand seven hundred and eighty-nine, it was resolved by the senate and house of representatives in congress assembled, two thirds of both houses concurring, that the following articles be proposed to the legislatures of the several states, all or any of which articles, when ratified as aforesaid to be valid to all intents and purposes as part of the said constitution, to wit:

ARTICLE I. After the first enumeration, required by the first article of the constitution, there shall be one representative for every thirty thousand, until the number shall amount to one hundred; after which the proportion shall be 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.

ART. II. No law, varying the compensation for the services of the senators and representatives, shall take ef-

I. YEAR

fect, until an e  
tervened.

ART. III.  
an establishme  
ercise thereof,  
the press, or th  
and to petition  
ances.

ART. IV.  
to the security  
keep and bear a  
ART. V. I  
quartered in any  
nor in time of v  
by law.

ART. VI.  
their persons, h  
sonable searches  
no warrants shal  
ted by oath or  
the place to be s  
seized.

ART. VII.  
capital, or otherw  
ment or indictm  
ing in the land or  
tual service in tin  
person be subject  
jeopardy of life o  
criminal case, to  
prived of life, libe  
law; nor shall pi  
without just comp

ART. VIII. I  
shall enjoy the rig  
impartial jury of t  
shall have been co  
previously ascerta  
the nature and cau  
with the witnesses  
cess for obtaining  
the assistance of c

ART. IX. In:  
in controversy sha

SSION,

ice shall be kept where the session. commence and be in force from

ART. XII.

Articles in addition to and of the United States of Congress to the Legislatures of

Approved, June 27th, 1792.  
3, (Vol. III. Chap. 112.)

it is provided by the fifth of the United States of America two thirds of both houses propose amendments to all be valid to all intents constitution, when ratified thirds of the several states. the congress of the United city of New-York, on year one thousand seven s resolved by the senate congress assembled, two ; that the following articles of the several states, en ratified as aforesaid poses as part of the said

enumeration, required tion, there shall be one ousand, until the num- after which the propor- res that there shall be ntatives, nor less than ty thousand persons, s shall amount to two ion shall be so regula- : be less than two hun- n one representative

compensation for the atives, shall take ef-

I. YEAR OF THE COMMONWEALTH.

77

1792.

fect, until an election of representatives shall have intervened.

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

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

ART. V. 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.

ART. VI. 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 person or things to be seized.

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

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

ART. IX. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of



1792. 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.

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

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

ART. XII. 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.

Ratification. SEC. 3. Be it therefore enacted by the general assembly, That the aforesaid articles and each of them be, and they are hereby confirmed and ratified.

CHAPTER XIII.

An ACT concerning the Treasurer.

Approved June 27th, 1792.

Re-enacted and enlarged at the January session of 1798, (Vol. II. Chap. 65.)

SECTION 1. BE it enacted by the General Assembly, That the treasurer for the time being shall not be capable of executing the said office until he hath given bond, with such security as shall be approved by the governor with the consent of the senate, in the sum of one hundred thousand pounds, payable to the governor and his successors, in trust for the use of the commonwealth, and conditioned for the faithful accounting for and paying all such sums of money as shall be received by him from time to time by virtue of any act of assembly, to be recovered upon the breach thereof on motion by the auditor in any court of record for public use: Provided, ten days previous notice be given in writing of such motion; and moreover the said treasurer before he enters into his said office shall take the following oath before the governor, to be administered by the secretary of state: "I, A. B. do swear that I will faithfully and truly execute the office of treasurer in all things relating to said office to the best of my skill and judgment according to law, so help me God."

Treasurer to give bond.

Condition.

Auditor may move on said bond.

SEC. 2. And the said... empowered and requiring several collectors of the... on lands or other property payable into the treasury... assembly, and shall apply only as shall be from time to time.

SEC. 3. And it shall not be lawful for the auditor to pay or receive any money without warrant or certificate from the secretary of the treasury, and the expences of his office for the preservation of his books and complements necessary for the same shall be examined and certified by the governor.

SEC. 4. And the said auditor shall provide for the charge, true, faithful and correct receipt of all moneys received by him from taxes and impositions by law, and also of all moneys which shall be paid out of the treasury, which accounts shall be kept of the several and respective moneys paid out of the treasury, and the same shall be open to the view of any person who may have any objection to the same, and he may appear before the auditor and make his objections known.

SEC. 5. And there shall be a list of the general assembly and the names of the members thereof, and the same shall be laid before the auditor, and he shall be bound to lay before the said auditor a true and correct voucher of the treasurer for whatever purpose, and such commissions of all monies received and paid out of the treasury, and report the same to the auditor, and the auditor shall discover that any moneys have been diverted to any other use, and he shall certify the same to the governor.

Photo Real copy of the actual original September 24, 1789 Joint Senate and House Conference Committee Final Report written in longhand by Senator Oliver Ellsworth of Connecticut, original on file in the United States Archives at House Resolutions, SR, DNA (1789).

D H 21

The Committees of the two Houses appointed to confer on their different votes on the Amendments proposed by the Senate to the Resolution proposing Amendments to the Constitution, and disagreed to by the House of Representatives, have had a conference, and have agreed that it will be proper for the House of Representatives to agree to the said Amendments proposed by the Senate, with an Amendment to their fifth Amendment, so that the third Article shall read as follows: "Congress shall make no law respecting an  
" establishment of Religion, or prohibiting the free ex-  
" -ercise 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"; - And with an Amendment to the  
fourteenth Amendment proposed by the Senate, so that  
the eighth Article, as numbered in the Amendments  
proposed by the Senate, shall read as follows: "In all  
criminal prosecutions, the accused shall enjoy the  
right to a speedy & public trial by an impartial  
jury of the district wherein the crime shall have  
been committed, as the district shall have been pre-  
viously ascertained by law, and to be informed of  
the

082  
" the nature and cause of the accusation, to be con-  
" fronted with the witnesses against him, and to have  
" compulsory process for obtaining witnesses against him  
" in his favour, & have the assistance of counsel for his  
" defence."

The Committees were also of opinion  
it would be proper for both Houses to agree to amend the  
first Article, by striking out the word "left" in the last line  
but one and inserting in its place the word "move", and  
accordingly recommend that the said Article be reconsidered  
for that purpose.

W. H. C. 1862

Report of Committee of  
Conference on the subject  
of Amendments to the  
Amendments proposed  
to the Constitution

Sept 26<sup>th</sup>

1862

1862

1862

Reprint in text of the September 24, 1789 Joint Conference Committee Final Report as reprinted at page 50 in the commercially published *Creating the Bill of Rights – The Documentary Record from the First Federal Congress*, edited by Helen E. Veit, Kenneth R. Bowling, and Charlene Bangs Bickford, John Hopkins University Press, Baltimore Maryland (1991).

be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel for his defence.

## ARTICLE THE NINTH.

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

## ARTICLE THE TENTH.

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

## [ARTICLE THE ELEVENTH.]

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

## ARTICLE THE TWELFTH.

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

[NEW-YORK, PRINTED BY THOMAS GREENLEAF.]

The printed Articles are in House Joint and Concurrent Resolutions, SR, DNA. We supplied the words in brackets by comparing the articles as passed by the House with Ellsworth's list of Senate amendments. Otis wrote "ag." in the margin beside all the paragraphs except the first, third, and eighth articles, to note House and conference agreement with the Senate wording. The first, third, and eighth articles were lined out, indicating that they were amended in accordance with the conference committee report.

### Conference Committee Report September 24, 1789

The Committees of the two Houses appointed to confer on their different votes on the Amendments proposed by the Senate to the Resolution proposing Amendments to the Constitution, and disagreed to by the House of Representatives, have had a conference, and have agreed that it will be proper for the House of Representatives to agree to the said Amendments proposed by the Senate, with an Amendment to their fifth Amendment, so that the third Article shall read as follows "Congress shall make no law *respecting an establishment of Religion*, or prohibiting the free exercise thereof; or abridging the freedom of Speech, or of the Press; or the right of the people peaceably to assemble and ~~to~~<sup>1</sup> petition the Government for a redress of

<sup>1</sup> The House restored the word "to."

grievancies;" And with an Amendment to the fourteenth Amendment proposed by the Senate, so that the eighth Article, as numbered in the Amendments proposed by the Senate, shall read as follows "In all criminal prosecutions, the accused shall enjoy the right to a speedy & publick trial by an impartial jury of the<sup>2</sup> district wherein the crime shall have been committed, as the<sup>3</sup> district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; and<sup>4</sup> to have compulsory process for obtaining Witnesses ~~against~~ <sup>to</sup> ~~him~~ in his favour, & have the assistance of counsel for his defence."

The Committees were also of Opinion that it would be proper for both Houses to agree to amend the first Article, by striking out the word "*less*" in the last line but one, and inserting in its place, the word "more," and accordingly recommend that the said Article be reconsidered for that purpose.

The report, in the hand of Ellsworth, is in House Resolutions, SR, DNA. The House amendments are included in the resolution printed in the *HJ*, p. 228. The last three amendments, to Article 8, were agreed to by a recorded vote of 37-14.

<sup>2</sup> The House inserted "state and!" at this point.

<sup>3</sup> The House struck out "as the" and inserted "which."

<sup>4</sup> The House struck out "and."

#### House Resolution September 24, 1789

RESOLVED, That the President of the United States be requested to transmit to the executives of the several states which have ratified the Constitution, copies of the amendments proposed by Congress to be added thereto; and like copies to the executives of the states of Rhode-Island and North-Carolina.

*HJ*, p. 229.



Copy of page from the *Oxford English Dictionary* for the word  
“penultimate”.

Oxford English Dictionary | The definitive record of the English language

---

## penultimate, *n.* and *adj.*

**Pronunciation:** Brit. /pɪˈnʌltɪmət/ , /pɛˈnʌltɪmət/ ,

U.S. /pəˈnəltəmət/

**Etymology:** < PENE- *prefix*+ ULTIMATE *adj.*, after classical Latin *paenultimus* PENULTIM *adj.* With use as adjective compare earlier PENULTIM *adj.*, PENULTIMA *adj.* Compare also PENULTIM *n.*, PENULTIMA *n.*

### A. *n.*

†1. The last day but one of a month; = PENULT *n.* 1. *Obs. rare.*

1529 BP. S. GARDINER *Let.* 30 Aug. (1933) 33 At Woodstock, the penultimate of August.

2. *Grammar and Prosody.* The last syllable but one of a word or piece of metrical writing.

1728 E. CHAMBERS *Cycl.* (at cited word), Antepenultimate is that before the Penultimate, or the last but two.

1804 W. MITFORD *Inq. Princ. Harmony Lang.* 268 Though Latin can have a long penultimate following an acuted antepenultimate, yet long vowels unacuted are numerous.

1876 C. M. DAVIES *Unorthodox London* 313 He also leaned to long penultimates in Phrygia and Libya.

1911 R. BROOKE in *Sat. Westm. Gaz.* 4 Feb. 6/2 All of the accents upon all the norms!—And ah! the stress on the penultimate! We never knew blank verse could have such feet.

1998 A. YOUSSEF & I. MAZURKEWICH in S. Flynn et al. *Generative Study Second Lang. Acquisition* xvi. 321 They are bound to produce and perceive stress on the heavy penultimate.

†3. *Math.* A penultimate member of a family of curves (see sense B. 3). *Obs. rare.*

1872 A. CAYLEY in *Messenger Math.* 1 178, I have had occasion to consider the form of a curve about to degenerate into a system of multiple curves; a simple instance is a trinodal quartic curve about to degenerate into the form  $x^2 y^2 = 0$ , or say a 'penultimate' of  $x^2 y^2 = 0$ .

**4. Cards.** The lowest card but one of a suit. Also *attrib.* in ***penultimate card.***

- 1876 A. CAMPBELL-WALKER *Correct Card Gloss.* p. xiii, *Penultimate, the*, beginning with the lowest card but one of the suit you lead originally, if it contains more than four cards.
- 1891 *Harper's Mag.* Mar. 605/2, I furnished to the *Field* a letter in which the penultimate was recommended as the proper lead after quitting the head of the suit, in order to show number.
- 1929 *Times* 30 Oct. 17/5 By degrees was evolved the practice of playing the 'penultimate card of five' and the 'antepenultimate of six'.
- 2003 *Independent on Sunday* (Nexis) 12 Jan. 45 Partner cashed her spades, and when I discarded the heart nine on the penultimate and the diamond 10 on the last, got the message and switched to the queen of diamonds.

**B. adj.**

**1. Last but one in a series of things; second last.**

- 1677 R. PLOT *Nat. Hist. Oxford-shire* 15 They [sc. the sounds of an echo] next strike the ultimate secondary object, then the penultimate and antepenultimate.
- 1709 BARNES in T. Hearne *Remarks & Coll.* 8 Feb. (1886) II. 167 Thanks for your penultimate rhapsody.
- 1785 T. JEFFERSON *Notes Virginia* xi. 176 Measuring it with that of an adult, by placing their hinder processes together, its broken end extended to the penultimate grinder of the adult.
- 1813 BYRON *Let.* 23 Nov. in *Lett. & Jrnls.* (1830) I. 486 One more revise—positively the last—at any rate, the penultimate.
- 1881 ST. G. MIVART *Cat* 99 The penultimate phalanx of each digit is hollowed out on its outer side.
- 1941 *Bot. Rev.* 7 355 Harder (1926), by microsurgery, isolated the penultimate cell of a growing hypha.
- 1995 *N.Y. Times* 24 Jan. C18/5 The play's penultimate sequence, set in a boxcar, is a shocker.

**2. Grammar and Prosody.** Designating the last syllable but one of a word or foot; occurring on the last syllable but one. Cf. sense A. 2.

- 1728 E. CHAMBERS *Cycl.*; *Penultima*, or *Penultimate*, in Grammar, &c. a Syllable, or Foot, immediately before the last.
- 1862 G. P. MARSH *Lect. Eng. Lang.* (new ed.) 380 The great frequency of ultimate and penultimate accentuation.
- 1880 G. GROVE *Dict. Music* II. 691 The Perielesis generally makes its appearance in connection with the penultimate or antepenultimate syllable of a final phrase.
- 1975 *Language* 51 265 The syncope of a penultimate unaccented vowel and the deletion of final shwa lead to a system in which stress invariably falls on the last syllable.

1999 *Mod. Lang. Jnl.* **83** 450/1 The author does include acute accents on stressed penultimate syllables.

**3. Math.** Relating to or designating a member of a family of curves that is arbitrarily close to a degenerate form. Now *rare*.

1872 A. CAYLEY in *Messenger Math.* **1** 180 The figure is drawn with very small values of  $a, f, h$  in order to exhibit as nearly as may be one of the penultimate forms of the curve.

1910 *Amer. Jnl. Math.* **32** 76 Cayley introduced the name 'penultimate curve' for the locus whose equation contains certain infinitesimal coefficients the vanishing of which renders the equation factorable into an ultimate form.

1933 *Trans. Amer. Math. Soc.* **35** 864 A plane through  $P$  intersects  $L$  in a curve with a triple point at  $P$  whose penultimate form consists of one node and two cusps.

---

penultimate, n. and adj.

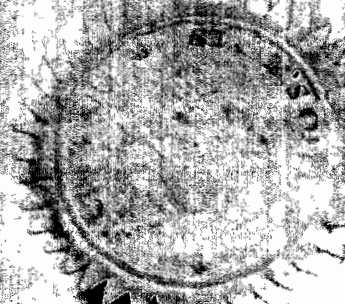
Third edition, September 2005; online version March 2012. <<http://www.oed.com/view/Entry/140380>>; accessed 22 April 2012. An entry for this word was first included in *New English Dictionary*, 1905.

Oxford University Press

Copyright © 2012 Oxford University Press . All rights reserved.

Your access is brought to you by:  
Monmouth University

Photo real copy of the "Vermont 15<sup>th</sup> Copy" of the Bill of Rights from February 1791, certified by then Secretary of State Thomas Jefferson, original on file in the Vermont State Archives.



Department of State &c.

I hereby certify that the Articles proposed as Amendments to the Constitution of the United States, and heretofore annexed, were truly copied from the Records of the Department of State.

In Testimony whereof I have caused my Seal of Office to be hereunto affixed, this ~~Twenty fifth~~ <sup>Twenty eighth</sup> Day of February, one thousand seven hundred and ~~seventy~~ <sup>eighty</sup> one.

J. W. Eaton

Congress of the United States, begun and held at the City of New York, on Wednesday the Fourth of March, one thousand seven hundred and eighty nine.

The Conventions of a Number of the States having at the Time of their adopting their respective Constitutions, in order to prevent Misconstruction or Abuse of its Powers, that further declaratory and restrictive Clauses should be added: and as extending the Ground of public Confidence in the Government will best insure the beneficial Ends of its Institutions—

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring, that the following Amendments proposed to the Legislatures of the several States, and proposed to the Constitution of the United States, all or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all Intents and Purposes, as Part of the said Constitution, 1791.

Articles

Articles in addition to, and Amendment of, the  
Constitution of the United States of America,  
proposed by Congress, and ratified by the Legislatures  
of the several States, pursuant to the fifth Article of  
the original Constitution.

### Article the First.

After the first Enumeration required by the First Article  
of the Constitution, there shall be one Representative for  
every thirty thousand, until the Number shall amount  
to one hundred, after which the Proportion shall be so  
regulated by Congress, that there shall be not less than  
one hundred Representatives, nor less than one Repre-  
sentative for every forty thousand Persons, until the  
Number of Representatives shall amount to two hundred,  
after which the Proportion shall be so regulated by  
Congress, that there shall not be less than two hundred  
Representatives, nor more than one Representative for  
every fifty thousand Persons.

### Article the Second.

No Law varying the Compensation for the Services of  
the Senators and Representatives, shall take Effect,  
until



shall an Election of Representatives shall have intervened.

### Article the Third.

Congress shall make no Law respecting an Establishment of Religion, or prohibiting the free Exercise thereof, or abridging the Freedom of Speech, or of the Press, or the Right of the People peaceably to assemble, and to petition the Government for a Redress of Grievances.

### Article the Fourth.

A well regulated Militia being necessary to the security of a free State, the Right of the People to keep and bear Arms shall not be infringed.

### Article the Fifth.

No Soldier shall in Time of Peace be quartered in any House without the Consent of the Owner; nor in Time of War, but in a Manner to be prescribed by Law.

### Article the Sixth.

The Right of the People to be secure in their Persons, Houses, Papers, and Effects, against unreasonable Searches and Seizures, shall not be violated; and no Warrants shall issue, but upon probable Cause, supported by Oath or Affirmation, and particularly

particularly describing the Place to be searched, and the  
Persons or Things to be seized.

### Article the Seventh.

No Person shall be held to answer for a capital, or other  
wise infamous Crime, unless on a Presentment or Indict-  
ment 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 compel-  
led in any criminal Cause, to be a Witness against  
himself, nor be deprived of Life, Liberty, or Property,  
without due Process of Law, nor shall private Property be  
taken for public Use without just Compensation.

### Article the Eighth.

In all criminal Prosecutions the accused shall enjoy  
the Right to a speedy and public Trial, by an im-  
-partial 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:

informed of the Nature and Cause of the Accusation; to be con-  
fronted with the Witnesses against him; to have compulsory  
Process for obtaining Witnesses in his Favor, and to have the  
Assistance of Counsel for his Defence.

#### Article the Ninth.

In Suits at Common Law, where the Value in Controversy shall  
exceed twenty Dollars, the Right of Trial by Jury, shall be  
preserved, and no Fact, tried by a Jury, shall be otherwise re-  
examined in any Court of the United States, than according to  
the Rules of the Common Law.

#### Article the Tenth.

Excessive Bail shall not be required, nor excessive Fines impos-  
ed, nor cruel and unusual Punishments inflicted.

#### Article the Eleventh.

The Enumeration in the Constitution, of certain Rights, shall not  
be construed to deny or disparage others retained by the People.

#### Article the Twelfth.

The Powers not delegated to the United States by the Consti-  
- tution

action, nor prohibited by it to the States, are reserved  
to the States respectively, or to the People.

Frederick Augustus Muhlenberg

Speaker of the House of Representatives

John Adams, Vice President of the United

States, and President of the Senate.

John B. Bingham, Clerk of the House of Representatives

Samuel A. Miles, Secretary of the Senate.

18-19  
206

**“The National Archives Presents the ORIGINAL Bill of Rights – with  
12 Amendments!”, December 7, 2010 (National Archives Official Press  
Release).**



FOR IMMEDIATE RELEASE

December 7, 2010

**The National Archives Presents the ORIGINAL Bill of Rights - with 12 Amendments!**  
*Bill of Rights Day is December 15 – 219<sup>th</sup> Anniversary*

Washington, DC. . . *The following is a document alert -- part of a program sponsored by the National Archives to notify the media of documents in the holdings of the National Archives that are relevant to national holidays, anniversaries or current events. This program is based on original records from the National Archives, its 13 Presidential libraries and 14 regional facilities, and is designed to offer the media an historical perspective on events that occur periodically and to highlight historical antecedents to current political or diplomatic initiatives.*

Americans cherish the first amendment as the expression of this country's most treasured personal freedoms. However, the ringing phrases that inventory freedom of speech, press, assembly, petition, and the right to a fair and speedy trial were not originally the first amendment in the Bill of Rights.

The Bill of Rights is actually an informal name for the joint resolution which the first Congress passed on September 25, 1789. The original resolution, engrossed (written in a large hand) on parchment and signed by Speaker of the House Frederick Augustus Muhlenberg, and President of the Senate John Adams, is the Federal government's official copy which is on permanent display in the Rotunda for the Charters of Freedom at the National Archives in Washington, DC. It contains 12 – not 10 – amendments.

In this *original* Bill of Rights, the first article outlines the ratio of constituents to each congressional representative:

**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.

Had this been ratified, there would be far more than 435 members of Congress –nearly 6,000. Currently, each member represents on average about 650,000 people.

The second article concerns congressional pay (this article was ratified in 1792 as the 27<sup>th</sup> amendment - 203 years after it was first suggested):

**Article the second**

No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

And the *third* article outlines personal freedoms:

**Article the third**

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

The then-11 states voted on this resolution on December 15, 1791. When the final votes were counted, only the latter ten of the 12 articles were ratified. These articles, originally numbered three through 12, became the first ten amendments to the U.S. Constitution, also known as the U.S. Bill of Rights. Thus Article the third became Article the first - the First Amendment.

The original Bill of Rights came to the National Archives in 1938 from the Department of State, which served as the keeper of important government records prior to the establishment of the National Archives in 1934. The other two documents on permanent display at the National Archives, the Declaration of Independence and the Constitution, came to the National Archives in 1952 from the Library of Congress.

Background

The Bill of Rights was not initially part of the U.S. Constitution. At the Constitutional Convention, the proposal to include a bill of rights was considered and defeated.

The fact that the Constitution did not include a bill of rights to specifically protect Americans' hard-won rights sparked the most heated debates during the ratification process. To the Federalists, those who favored the Constitution, a bill of rights was unnecessary because the Federal Government was limited in its powers and could not interfere with the rights of the people or the states; also, most states had bills of rights. To the Anti-Federalists, those who opposed the Constitution, the prospect of establishing a strong central government without an explicit list of rights guaranteed to the people was unthinkable. Some states resisted ratifying a Constitution that had no guarantee of individual freedoms. Throughout the ratification process, individuals and state ratification conventions called for the adoption of a bill of rights.

The First Federal Congress at Federal Hall in New York City took up the question of a bill of rights almost immediately, and engaged in passionate debate. Throughout the summer of 1789, Congress drafted and passed a resolution proposing 12 articles as first amendments to the new Constitution, now known as the Bill of Rights. The proposed articles guaranteed individual rights and freedoms and were critical to the formation of a democratic government. On September 25, by joint resolution, Congress passed 12 articles of amendment. President George Washington signed this resolution on October 2, 1789 and forwarded copies to the 11 states that had ratified the U.S. Constitution. Washington also forwarded courtesy copies to Rhode Island and North Carolina, states that had not ratified the Constitution and could not act on this resolution.

The 11 states began the process of ratifying these 12 articles. Each state was to hold a referendum, asking its voters to approve or disapprove each article. Ratification of any article by at least three quarters of the states meant acceptance of that article. Six weeks after receiving the resolution, North Carolina ratified the Constitution. (North Carolina had resisted ratifying the Constitution because the document did not guarantee individual rights.) During this process Vermont became the first state to join the Union after the Constitution was ratified, and Rhode Island (the lone holdout) also joined. Each state tallied its votes and forwarded the results to Congress.

# # #

For PRESS information, contact the National Archives Public Affairs staff at (202) 357-5300.

Follow us on:

Twitter: [twitter.com/archivesnews](https://twitter.com/archivesnews)

Facebook: USNationalArchives

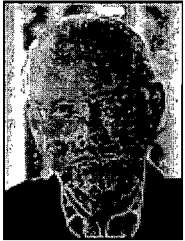
11-21



“The Telling Tale of the Twenty Seventh Amendment: A Sleeping Amendment Concerning Congressional Compensation is Later Revived”, by John W. Dean, Friday September 27, 2002, in FindLaw® Writ (<http://writ.news.findlaw.com/dean/20020927.html>).



<http://writ.news.findlaw.com/dean/20020927.html>



## THE TELLING TALE OF THE TWENTY-SEVENTH AMENDMENT: A Sleeping Amendment Concerning Congressional Compensation Is Later Revived

By **JOHN W. DEAN**

Friday, Sep. 27, 2002

On September 24, 1789, in the first-ever effort to amend the new Constitution, Congress submitted to the states twelve amendments designed to resolve problems that had arisen during the ratification debates. By 1791, ten of these, relating to individual rights and liberties - the "Bill of Rights" - had been adopted. But two, relating to the structure and operations of the legislative branch, were passed over.

The second, however, was awakened after a two-hundred-year snooze, and is now part of the Constitution. Now called the Twenty-seventh Amendment, it places limitations on Congress' increasing its members' compensation without an intervening election.

This Rip Van Winkle amendment's revival is a telling tale on many levels - yet one that is little known. It was a student, interestingly, who found the sleeping amendment, and pursued the work started two hundred years earlier by James Madison and the First Congress. I tracked him down and spoke to him about his successful one-man constitutional campaign.

### **The Two Sleeping Amendments: Congressional Apportionment and Pay**

A bit of background, first. In 1787-88, Anti-Federalists, who opposed a new constitution, made a powerful and persuasive case for their position during the ratification debates. They contended that not only did the new constitution, unlike most state constitutions, fail to provide protections for individual rights with a Bill of Rights, but it also failed to address the size and compensation of the Congress. These failures, they said, gave unrestricted powers to the new government.

Article I of the Constitution, creating the legislative branch, only provided temporarily for the size of the House of Representatives. It allocated sixty-five House seats among the states, with no more than one Representative for every thirty thousand people (with each slave being counted as three-fifths of a person) and each state having at least one Representative. But it was silent on Congressional salaries.

Proponents of the new constitution were hammered by opponents on these issues. Size and pay were not esoteric questions of political theory; rather, they were easily understood by the public. For this reason, the First Congress proposed that the first amendment to the Constitution control the size of the House of Representatives, and the second amendment prohibit Congress from voting itself a pay raise without an intervening election of the House of Representatives.

In March 1789, when the First Congress convened, James Madison had already been studying a pamphlet published by Virginia printer Augustine Davis, who had gathered more than two hundred proposed amendments to the Constitution recommended by the ratifying conventions. Madison had initially thought amendments unnecessary. But after corresponding with Thomas Jefferson and George Washington, he decided otherwise.

Accordingly, Madison sought to adopt amendments that would assure the public's trust in the new

government, bring the states of North Carolina and Rhode Island back into the Union, honor the promises the Federalists made in campaigning for the Constitution, and remedy the defects that the ratification debates had made apparent.

Madison was anything but alone. Indeed, the House of Representatives ultimately would adopt seventeen amendments to send to the states. The Senate, however, cut the number back to twelve. The House then agreed upon the twelve, after some changes in language. (Senate debate on these amendments was not recorded, for at that time the Senate met behind closed doors, without an official recorder.)

Actually, Madison wanted to amend the text of the Articles of the Constitution, rather than tacking on a Bill of Rights and further amendments. But Congressman Roger Sherman disagreed.

Sherman felt to interweave amended text with the current text of the Constitution would destroy the fabric of the Constitution - which he believed was an act of the People, whereas amendments were acts of state governments. Sherman's approach was adopted, and set the precedent for all future amendments, which followed, rather than altering, the document's text.

### **Failure To Ratify The Congressional Compensation and Size Amendments**

Article V of the Constitution requires that three-fourths of the states must ratify any amendment for it to be part of the law of the land. By December 15, 1791, eleven of the fourteen states of the Union - the necessary three-fourths - had approved ten of the twelve proposed amendments (proposed amendments three through twelve). They had not, however, approved the original first and second proposed amendments, relating to Congressional compensation and apportionment.

Between submission to the states in 1789 and December 1791, the first proposed amendment (relating to Congressional apportionment) was ratified by ten states and rejected by one. Meanwhile, the second proposed amendment (on Congressional pay) was adopted by six states and rejected by five states.

Accordingly, in 1791, the ten adopted amendments were renumbered, and made the first ten amendments to the Constitution - known as the Bill of Rights.

Because no time limit had been placed on ratification of these initial amendments by Congress, the two amendments which had not been ratified simply remain in a limbo-like state of existence somewhere between life and death. The subject of the two amendments that were not ratified was addressed by legislative action, when Congress wrote a law dealing with apportionment and salaries.

Time has shown that the proposed first amendment would have been less than a provident law for Congressional apportionment. In contrast, time only has exacerbated the issue of Congressional pay - and, in particular, the issue of Congress' giving itself a pay raise without voters' being able to express their views on the matter.

### **Congressional Apportionment: Why The Amendment Was Unwise**

The first proposed amendment, however, looked to the future. It provided a formula to adjust the size of the House of Representatives to accommodate the nation's population growth.

Under the proposed amendment, there was to be one Representative for every thirty thousand persons, until the House had one hundred members; then there would be one Representative for every forty thousand, until the House had two hundred members. If and when one Representative would have fifty thousand constituents, Congress was to provide new ratios.

Had this amendment been adopted, the House of Representatives would have become massive. The United States population reached 250,000,000 in 1990. Under the first proposed amendment, the House would have grown to 5,000 members.

By legislation, however, Congress has locked the number of House members at 435, which has worked well. This first proposed amendment for Congressional apportionment is best left sleeping forever.

### **Congressional Salaries: A Long-Sleeping Amendment Is Revived**

The second proposed amendment on Congressional salaries, however, went through an unusual two-hundred-and-three-year ratification process. Today, it is the Twenty-seventh Amendment, but notwithstanding its standing as the law of the land, it has yet to be enforced.

The First Congress experienced bitter and divisive debates over Congressional salaries. Sadly, the intervening two centuries have not much improved the debate.

Years, even decades, often pass without Congress addressing its compensation. There always have been, and probably always will be, people who believe members of the House and Senate are either paid too little or too much - and those of the latter belief are quite resistant, of course, to salary change.

For example, in 1817 Congress tried to increase its salaries, placing them on an annual rather than per diem basis. But the public outcry was so severe, Congress repealed the effort, and its members did not dare adjust their salaries for another forty years.

Under the 1975 law, members of Congress were still forced to vote for the COLAs - and thus to take flack for raising their own salaries. Later, this law was amended so that unless the Congress votes down a COLA, it automatically takes effect.

### **Reviving The Proposed Second Amendment: A Student's Campaign**

Nowadays, many both inside and outside Congress are unhappy with the way Senators and Representatives take such good care of their compensation - salaries, health benefits, and countless perks.

In 1982, Gregory D. Watson, a twenty-year-old college sophomore majoring in economics at the University of Texas, Austin, was looking for a topic for a paper in his course on government. While browsing, Watson found the un-ratified 1789 Congressional compensation amendment.

After a bit more digging, Watson also found that six states had ratified it, and five had rejected it. But then he discovered that another state, years later, had ratified it, too.

In 1873, during the second term of the Grant administration, Congress increased its salary from \$5,000 a year to \$7,500 - retroactively, giving each member a \$5,000 windfall. The great "Salary Grab" as it was known, produced public clamor, forcing the Congress to repeal their salary increase.

Also in 1873 - as Watson discovered - the Ohio General Assembly ratified the Congressional compensation amendment, eighty-four years after it had been submitted by Congress. The ratification was, in effect, a protest of the Salary Grab, for the 1789 amendment outlawed this very type of action the Salary Grab represented. The Amendment stated simply that: "No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened."

Watson decided that since the 1789 amendment had no time limit on it, it was still viable, and could be adopted by other states. After all, the issue of Congress' voting itself pay raises remained a problem.

Watson wrote up his analysis, recommending that the 1789 amendment be adopted by the rest of the states. Watson's government professor was unimpressed and gave him only a "C" for his efforts. But he remained intrigued by what he had discovered.

Gregory Watson undertook his own campaign to get the 1789 Congressional compensation amendment to become part of the Constitution. Remarkably, he succeeded. I wanted to learn more, so I tracked him down.

When Watson started, he believed only seven states had ratified what is now the Twenty-Seventh Amendment: Maryland, North Carolina, South Carolina, Delaware, Vermont and Virginia - all of which had ratified between 1789 and 1791 - plus Ohio, which had ratified in 1873. But he needed thirty-eight states total - three-quarters of fifty - to make it the supreme law of the land.

Watson told me he thought his best chance was to start with states where both the House and Senate of the state's legislature were controlled by one party. So he started with Maine. Maine bought his arguments and ratified in 1983. Then in 1984, Colorado did the same.

After State Legislatures magazine reported the new ratifications, another state, Wyoming, reporting that it had ratified the 1789 amendment too - back in 1977. Much like Ohio in 1873, Wyoming had done so to protest a Congressional pay raise.

Watson's one-man bandwagon soon attracted a few big name players, who wanted to join him. Paul Gann, the California tax gadfly who with Howard Jarvis had authored California's Proposition 13 (limiting state property taxes), was one of them. Gann started a movement to get all states to adopt the 1879 compensation amendment.

Ralph Nader also joined the effort, urging that the amendment, be adopted. And much later a few members of Congress would make noise on behalf of the amendment, too. But as I see it, none of these "heavies" (my word, not Watson's) had any real impact. Rather they came and were gone. Yet Watson, like the Energizer bunny, kept at it.

Working on his IBM Selectric typewriter at home and on weekends, Watson, who had become a legislative assistant with the Texas State Legislature, kept papering state legislatures. His goal was to get the proposed amendment ratified by the two-hundredth anniversary of its passage by Congress - September 1989. He didn't make it, but he came close.

### **The Final Push That Made the Amendment Part of the Constitution**

On March 29, 1989, *The Washington Post* picked up the story. Watson had twenty-seven of the thirty-eight needed states. Several members of Congress had taken notice, and were encouraging their states to adopt the amendment. But, as the *Post* reported, constitutional scholars were very dubious.

Dellinger was referring to the Supreme Court's holding in *Coleman v. Miller*. However, this case sets no time limit. Rather, the decision leaves it to Congress to decide if it reflects a "contemporary consensus." Greg Watson, not an attorney, believed he was gathering a contemporary consensus, so he kept going.

Seven states ratified in 1989, two more in 1990, and in 1991 one more. Watson was on the home stretch. By the spring of 1992 Michigan and New Jersey were racing to become the thirty-eighth state and make it law. Michigan won the race, but New Jersey became the thirty-ninth state, followed by Illinois and California - taking the total number of ratifying states to forty-one. On May 18, 1992 the Archivist of the United States, Don W. Wilson, ruled the Twenty-seventh Amendment ratified.

Congress did not know what had hit them. Speaker Tom Foley thought maybe the House should hold hearings, but then he decided that if the Archivist had certified it, that was good enough for him.

Senate President *pro tempore* Robert Byrd said it was for the Congress to determine when and whether the Constitution has been amended, and they had not yet done so. Congress, however, knew that if it challenged the Amendment, it would be playing a dangerous political game with a highly sensitive subject - members' compensation.

Accordingly, on May 20, 1992 the Senate voted 99 to 0 to approve the new Twenty-seventh Amendment, and the House voted its approval 414 to 3.

### **A Remarkable Effort By A Single Citizen**

Remarkably, and singlehandedly, Greg Watson had amended the Constitution. Today, he is forty years of age, and a man who works three jobs, and seven days a week. In short, he is not a man of great means. Yet he spent his own money to mail countless papers to legislatures throughout the country, and to pay the long distance phone bill so he could give assistance. Watson says he also did all of his own research, running his campaign at nights and on weekends, using his own time.

Why? Based on my conversation with Watson, he strikes me as a concerned citizen - actually, a kind of super-citizen. He is modest and self-effacing - not someone seeking his fifteen minutes of fame. Rather, he is a person who sincerely believed this amendment, if ratified, would improve the Constitution in just the manner the First Congress had sought.

"The American people want a Congress that is honest, that has integrity. This Amendment is one vehicle by which some degree of decorum can be restored," Watson was quoted as saying in May 1992.

Had she ever said anything about the lousy grade she gave him? He laughed, and said that a reporter had tracked her down, and told her Watson had gotten the Constitution amended. She was quite embarrassed, and called to apologize for giving him only a "C."

### **How Long Can Congress Ignore The Twenty-Seventh Amendment?**

After my conversation with Watson, I thought: There's only one problem with Gregory Watson's efforts - so far they have been for naught. Congress has totally ignored the Twenty-seventh Amendment, proceeding as if it did not exist. In addition, there has been a lively scholarly debate as to whether the Twenty-seventh Amendment is, in fact, the supreme law of the land.

Since 1997, Congress has taken four COLAs - and remained silent. Congress takes the position that they these pay raises are based on a law that existed before the Twenty-seventh Amendment.

Thus, they claim they have not passed a law in violation of the Amendment's prohibition; rather, they are just following a pre-existing law. The problem with this argument, though, is that the Amendment effectively repeals contrary prior Congressional enactments - or at least renders them unable to be enforced now, after it has been passed.

So far no one has been able to get standing in a federal court to force the Congress to comply with the Constitution, or to test the validity of this amendment. For that reason, I'm sending this column to the best plaintiff's constitutional lawyer I know -- Alan Morrison of Public Citizen in Washington, DC.

If anyone can find a way to resolve these not unimportant questions, I'm confident it is Public Citizen. And I have no doubt that Gregory Watson is himself a public citizen - one with the country's best interests in mind, and one who would like to see his efforts enforced, as well as recognized as valid constitutional law.

---

*John Dean, a FindLaw columnist, is a former Counsel to the President of the United States*

[Company](#) | [Privacy Policy](#) | [Disclaimer](#)

Copyright © 1994-2012 FindLaw

Photo Real copy of February 15, 1791 Official Letter from Secretary of State Thomas Jefferson to President George Washington, original on file at the Library of Congress at: The Thomas Jefferson Papers Series 1. General Correspondence. 1651-1827 Thomas Jefferson to George Washington, February 15, 1791, Opinion on Bill for Establishing a National Bank (image 984-990).

E 1771, Feb. 15 3

477

The bill for establishing a National Bank on certain conditions

- 1. to form the subscribers into a Corporation.
- 2. to enable them, in their corporate capacities to receive grants of lands, as far as against the laws of Mortmain.
- 3. to make such subscribers capable of holding lands, & as far as against the laws of Alienage.
- 4. to transmit these lands, on the death of a proprietor, to a certain line of successors, & as far as changes the laws of Descent.
- 5. to put the lands out of the reach of forfeiture or escheat, & as far as against the laws of Forfeiture & Escheat.
- 6. to transmit personal chattels to successors in a certain line, & as far as against the laws of Distribution.
- 7. to give them the sole & exclusive right of banking under the national authority, & as far as against the laws of Monopoly.
- 8. to communicate to them a power to make laws paramount to the laws of the states: for as they must be continued, to protect the constitution from the control of the state legislatures, & as, should they will be annulled.

I consider the foundation of the Constitution as laid on this ground that all powers not delegated to the U.S. by the Constitution, nor prohibited by it to the states, are reserved to the states or to the people. It is essential to take a single step beyond the boundaries thus specially drawn around the Government is to take a step towards the usurpation of a power which is reserved to the people.

It is essential to take a single step beyond the boundaries thus specially drawn around the Government is to take a step towards the usurpation of a power which is reserved to the people.

10518





The incorporation of banks, & the power assumed by Congress, have not, in my opinion, been delegated to the U. S. by the Constitution.

1. They are not among the powers specially enumerated, & there is no power to lay taxes for the purpose of paying the debts of the U. S. but no debt is paid by this bill, nor any tax laid. were it a bill to raise money, it's originall in the Senate would evidence it by the constitution.

2. 'to borrow money' but this bill neither borrows money, nor does the borrowing it. the proprietors of the bank will be just as free as any other man, to lend or not to lend their money to the public. the grant proposed in the bill, first to lend them two millions, & then borrow them back again, cannot change the nature of the latter act, which will still be a payment, & not a loan, call it by what name you please.

3. 'to regulate commerce with foreign nations, & among the states, & with the Indian tribes' to erect a bank, & to regulate commerce, are different acts. he who erects a bank creates a subject of commerce in itself; so does he who erects a bushel of wheat, or digs a dollar out of mines; yet neither of these persons regulates commerce thereby. to regulate a thing which may be bought & sold, is not to regulate the regulation for buying & selling. besides; if this was an exercise of the power of regulating commerce, it would be void, as extending as much to the internal commerce of every state, as to it's external. for the power given to Congress by the Constitution, does not extend to the internal regulation of the commerce of a state (that is to say of the commerce between the states) which remains exclusively with it's own legislature; but to it's external commerce only, that is to say, it's commerce with another state, or with

10533

126  
 even as the 2<sup>d</sup> of the 1<sup>st</sup> and those without which it is known that the  
 power could not be carried into effect. It is known that the  
 power was proposed as a means, and rejected as an end, by the  
 Convention which formed the constitution, a proposition was made to them  
 to authorize Congress to open canals, & in amending it to improve  
 in them to improve, but the whole was rejected, & one of the reasons  
 for rejection urged in debate was that then they would have a power  
 over a land which would render the great cities, where there were  
 great numbers of inhabitants, subject to the reception of the constitution.

2. The second general phrase is "to make all laws necessary  
 & proper for carrying into execution the enumerated powers; but  
 they can all be carried into execution without a bank, at least there  
 is not necessary, and consequently not authorized by this phrase.

It has been also urged that a bank will give great facility  
 convenience in the collection of taxes, suppose this were true, &  
 the constitution allows only the means which are "necessary" or  
 those which are merely "convenient" for effecting the enumerated  
 if under a latitude of construction be allowed, the phrase as to give  
 any non enumerated power, it will go to carry one, for there is  
 one which is granted, may not better be a general one, in some  
 matter, to execute, if so long a list of enumerated powers, it  
 would be up all the delegated powers, and where the whole is not  
 as before deemed. Therefore it is that the constitution is intended  
 to the necessary means, that is to say to those means without  
 the grant of the power would be granted.

10583

a

427  
 But let us examine this convenience & see what it is. The report  
 on this subject, page 8, states the only general convenience to be the  
 preventing the transportation & accumulation of money between the  
 states & the treasury. (for I paid over the necessity of a circulating medium  
 ascribed to it as a merit, and which, according to my ideas of paper money  
 is clearly a demerit.) Every state will have to pay a sum of tax-money  
 into the treasury, & the treasury will have to pay, in every state, a part  
 of the interest on the public debt, & salaries to the officers of government  
 resident in that state. In most of the states there will still be a sur-  
 plus of tax-money to come up to the seat of government for the officers  
 residing there. The payments of interest & salary in each state may be  
 made by treasury orders on the state collector. This will take up the great  
 or part of the money he has collected for his state, & consequently prevent  
 the great mass of it from being drawn out of the state. If there be a bal-  
 ance of commerce in favour of that state against the one in which  
 the government resides, the surplus of taxes will be omitted by the  
 bills of exchange drawn for that commercial balance, and so it must  
 be if there was a bank. But if there be no balance of commerce, either  
 direct or circuitous, all the banks in the world could not bring up  
 the surplus of taxes but in the form of money. Treasury orders then  
 & bills of exchange may prevent the displacement of the main  
 mass of the money collected, without the aid of any bank. & where there  
 is no bank, it cannot be prevented even with that aid.

Perhaps united bank bills may be a more convenient vehicle  
 than treasury orders, but a little difference in the degree of conveni-

we could not take the receipt, but the constitution makes the ground for opening any coin-enclosed power.

422 Besides, the country is not a single state, and the arrangements for lending these agencies, if the more favorable, as there will be a competition among them for it. We see the bill delivers us up bound to the national bank, as we are free to refuse all arrangement, but on the own terms, if the public, not free, or not refused, to employ any other bank, that of Philadelphia, New York, or elsewhere, by their post-notes, which by arrangement with the treasury, are paid by any state collector to whom they are presented. This expedient alone suffices to prevent the evidence of that receipt, which may justify the assumption of a non-enclosed power as a means for carrying into effect an unconstitutional one. Nothing may be done, and has been done, & will done about this assumption, therefore it does not stand on that dangerous receipt, which can hardly justify it.

It may be said that a bank should have a currency all over the States, and be an instrument than one whose currency is limited to a single state, as it would be the more convenient that there should be a bank whose bills should have a currency all over the world. but it does not follow from this superior consideration that there exists any other power to establish such a bank; or that the world may not go on very well without it.

Can it be thought that the Constitution intended that for a state emergency or two of emergency, more or less, Congress should be authorized to break down the contract & funds

10527

-minded

mental laws of the several states, such as those against Mockmen  
 the laws of abridgment, the rules of descent, the rules of distribution, the law  
 of contract & property, the laws of inheritance, & nothing more, need to be  
 inevitable by any other means, as justice, in a provision of law  
 which constitute the pillars of our whole system of government, will  
 Congress be too much bound to carry the constitution into honest effect  
 unless they may pass over the foundation-laws of the state-governments  
 for the slightest convenience to theirs?

The Negative of the President is the shield provided by the con-  
 stitution to protect against the encroachments of the Legislature, the right  
 of the Executive, & of the State & State Legislatures.  
 The present is the case of a right remaining exclusively with the  
 Executive, & the President, & is intended by the constitution to place  
 under the Executive protection.

It must be admitted however, that unless the President's name  
 on a new law, which is used for & against his bill, is held  
 to be clear that the members of the constitution, of the pres-  
 and the Congress as well as to balance his judgment, a just  
 regard for the wisdom of the Legislature would naturally decide  
 the balance in favor of their opinion. It is chiefly for cases  
 where they are clearly misled by error, ambition, or interest, that  
 the constitution has placed a check in the negative of the President.

*John Jay*  
 Feb. 15. 1791.

10528

Reprint in text of the February 15, 1791 Opinion Letter from Secretary of State Thomas Jefferson to President George Washington as reprinted at page 90 in the commercially published *Liberty and Justice – A Historical Record of American Constitutional Development*, Edited by James Morton Smith and Paul L. Murphy, Alfred A. Knopf, New York, New York (1963).

### 38. *The Bank of the United States: Broad versus Strict Construction*

A. THOMAS JEFFERSON TO GEORGE WASHINGTON,  
FEBRUARY 15, 1791

Andrew A. Lipscomb and Albert Ellery Bergh, eds.,  
*The Writings of Thomas Jefferson* (Washington,  
1903), III, 146-53.

I consider the foundation of the Constitution as laid on this ground—that “all powers not delegated to the United States, by the Constitution, nor prohibited by it to the states, are reserved to the states; or to the people” [XIIth amendment.] [To take a single step beyond the boundaries thus specially drawn around the powers of Congress, is to take possession of a boundless field of power, no longer susceptible of any definition.

The incorporation of a bank, and the powers assumed by this bill, have not, in my opinion, been delegated to the United States by the Constitution.

I. They are not among the powers specially enumerated: for these are:

1st. A power to lay taxes for the purpose of paying the debts of the United States. But no debt is paid by this bill, nor any tax laid. Were it a bill to raise money, its organization in the Senate would condemn it by the Constitution.

2d. “To borrow money.” But this bill neither borrows money nor insures the borrowing of it. The proprietors of the bank will be just as free as any other money-holders to lend, or not to lend, their money to the public. The operation proposed in the bill, first to lend them two millions, and then borrow them back again, cannot change the nature of the latter act, which will still be a payment, and not a loan, call it by what name you please.

3d. To “regulate commerce with foreign nations, and among the states, and with the Indian tribes.” To erect a bank, and

to regulate commerce, are very different acts. He who erects a bank creates a subject of commerce in its bills; so does he who makes a bushel of wheat, or digs a dollar out of the mines; yet neither of these persons regulates commerce thereby. To make a thing which may be bought and sold, is not to prescribe regulations for buying and selling. Besides, if this were an exercise of the power of regulating commerce, it would be void, as extending as much to the internal commerce of every state, as it is external. For the power given to Congress by the Constitution does not extend to the internal regulation of the commerce of a state . . . which remains exclusively with its own legislature; but to its external commerce only, that is to say, its commerce with another state, or with foreign nations, or with the Indian tribes. Accordingly, the bill does not propose the measure as a regulation of trade, but as “productive of considerable advantage to trade.” Still less are these powers covered by any other of the special enumerations.

II. Nor are they within either of the general phrases, which are the two following:—

1. To lay taxes to provide for the general welfare of the United States, that is to say, “to lay taxes for *the purpose* of providing for the general welfare.” For the laying of taxes is the *power*, and the general welfare the *purpose* for which the power is to be exercised. Congress are not to lay taxes *ad libitum* for any purpose they please; but only to pay the



debts, or provide for the welfare, of the Union. In like manner, they are not to do anything they please to provide for the general welfare, but only to lay taxes for that purpose. To consider the latter phrase, not as describing the purpose of the first, but as giving a distinct and independent power to do any act they please, which might be for the good of the Union, would render all the preceding and subsequent enumerations of power completely useless.

It would reduce the whole instrument to a single phrase, that of instituting a Congress with power to do whatever would be for the good of the United States; and, as they would be the sole judges of the good or evil, it would be also a power to do whatever evil they please.

It is an established rule of construction, where a phrase will bear either of two meanings, to give it that which will allow some meaning to the other parts of the instrument, and not that which will render all the others useless.

Certainly no such universal power was meant to be given them. It was intended to lace them up straitly within the enumerated powers, and those without which, as means, these powers could not be carried into effect. It is known that the very power now proposed *as a means*, was rejected *as an end* by the Convention which formed the Constitution. A proposition was made to them, to authorize Congress to open canals, and an amendatory one to empower them to incorporate. But the whole was rejected; and one of the reasons of objection urged in debate was, that they then would have a power to erect a bank, which would render great cities, where there were prejudices and jealousies on that subject, adverse to the reception of the Constitution.

2. The second general phrase is, "to make all laws *necessary* and proper for carrying into execution the enumerated powers." But they can all be carried into

execution without a bank. A bank, therefore, is not *necessary*, and consequently not authorized by this phrase.

It has been much urged that a bank will give great facility or convenience in the collection of taxes. Suppose this were true: yet the Constitution allows only the means which are "*necessary*," not those which are merely "*convenient*," for effecting the enumerated powers. If such a latitude of construction be allowed to this phrase as to give any non-enumerated power, it will go to every one; for there is not one which ingenuity may not torture into a *convenience* in some instance or other, to some one of so long a list of enumerated powers. It would swallow up all the delegated powers, and reduce the whole to one phrase, as before observed. Therefore it was that the Constitution restrained them to the *necessary* means; that is to say, to those means without which the grant of the power would be nugatory. . . .

Perhaps bank bills may be a more *convenient* vehicle than treasury orders. But a little *difference* in the degree of *convenience* cannot constitute the necessity which the Constitution makes the ground for assuming any non-enumerated power. . . .

Can it be thought that the Constitution intended that, for a shade or two of *convenience*, more or less, Congress should be authorized to break down the most ancient and fundamental laws of the several states; such as those against Mortmain, the laws of Alienage, the rules of descent, the acts of distribution, the laws of escheat and forfeiture, and the laws of monopoly. Nothing but a necessity invincible by other means, can justify such a prostitution of laws, which constitute the pillars of our whole system of jurisprudence. Will Congress be too strait-laced to carry the Constitution into honest effect, unless they may pass over the foundation laws of the state governments, for the slightest convenience to theirs?

The negative of the President is the

shield provided by the Constitution to protect, against the invasions of the legislature, 1. The rights of the Executive; 2. Of the Judiciary; 3. Of the States and State legislatures. The present is the case of a right remaining exclusively with the States, and is, consequently, one of those intended by the Constitution to be placed under his protection.

It must be added, however, that, unless the President's mind, on a view of

everything which is urged for and against this bill, is tolerably clear that it is unauthorized by the Constitution, if the pro and the con hang so evenly as to balance his judgment, a just respect for the wisdom of the legislature would naturally decide the balance in favor of their opinion. It is chiefly for cases where they are clearly misled by error, ambition, or interest, that the Constitution has placed a check in the negative of the President.

B. ALEXANDER HAMILTON TO GEORGE WASHINGTON,  
FEBRUARY 23, 1791

John C. Hamilton, ed., *The Works of Alexander Hamilton* (New York, 1851), IV, 105-33.

In entering upon the argument it ought to be premised that the objections of the Secretary of State and the Attorney-General are founded on a general denial of the authority of the United States to erect corporations. The latter, indeed, expressly admits, that if there be anything in the bill which is not warranted by the Constitution, it is the clause of incorporation.

Now it appears to the Secretary of the Treasury that this *general principle* is *inherent* in the very *definition* of government, and *essential* to every step of the progress to be made by that of the United States, namely: That every power vested in a government is in its nature *sovereign*, and includes, by *force* of the *term* a right to employ all the *means* requisite and fairly applicable to the attainment of the ends of such power, and which are not precluded by restrictions and exceptions specified in the Constitution, or not immoral, or not contrary to the *essential ends* of political society. . . .

If it would be necessary to bring proof to a proposition so clear, as that which affirms that the powers of the federal government, as to *its objects*, were sovereign, there is a clause of the Constitution which would be decisive. It is

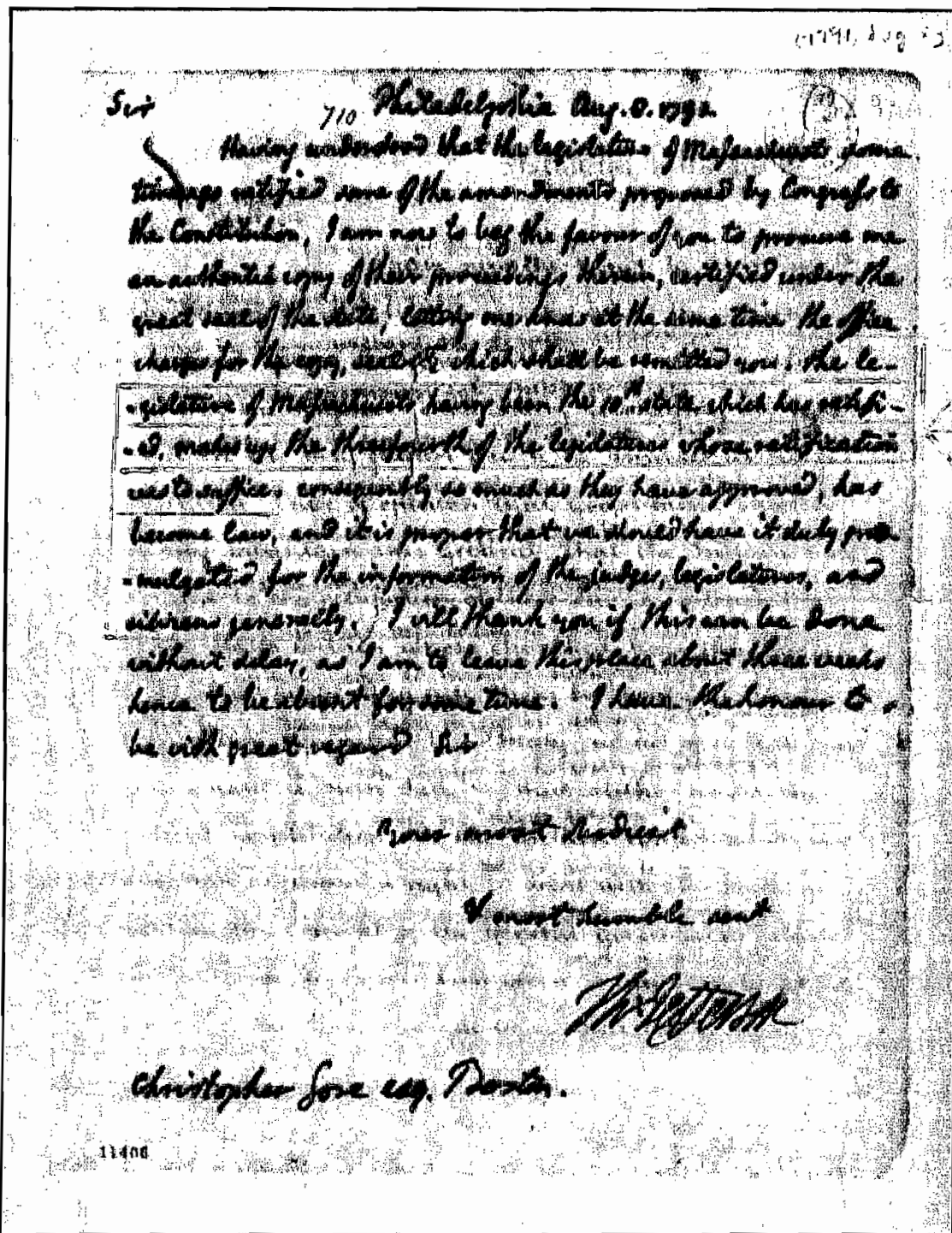
that which declares that the Constitution, and the laws of the United States made in pursuance of it . . . shall be the *supreme law of the land*. The power which can create a *supreme law of the land* in *any case*, is doubtless *sovereign* as to such case.

This general and indisputable principle puts at once an end to the *abstract* question, whether the United States have power to erect a *corporation*; that is to say, to give a *legal* or *artificial capacity* to one or more persons, distinct from the *natural*. For it is unquestionably incident to *sovereign power* to erect corporations, and consequently to *that* of the United States, in *relation* to the *objects* intrusted to the management of the government. The difference is this: where the authority of the government is *general*, it can create corporations in *all cases*; where it is confined to certain branches of legislation, it can create corporations *only* in those cases. . . .

It is not denied that there are *implied* as well as *express powers*, and that the *former* are as effectually delegated as the *latter*. . . .

It is conceded that *implied powers* are to be considered as delegated equally with *express ones*. Then it follows, that

Photo Real copy of August 8, 1791 Official Letter from Secretary of State Thomas Jefferson to United States Attorney for Massachusetts Christopher Gore, original in file in the Library of Congress at: The Thomas Jefferson Papers Series 1. General Correspondence. 1651-1827 Thomas Jefferson to Christopher Gore, August 8, 1791 (Image 914 of 1131).



[Series Browse List](#) | [The Thomas Jefferson Papers](#) | [Archival grayscale/color \(JPEG - 292K\)](#)

Image 914 of 1131

Turn to image

[PREV IMAGE](#) | [NEXT IMAGE](#)

914

Reprint in text of August 8, 1791 Official Letter from Secretary of State Thomas Jefferson to United States Attorney for Massachusetts Christopher Gore as found in Volume V, Part 2 (Letters and Papers Relating to the Constitution, from August 1, 1788 to death of Madison; Appendix; Bibliography), pages 244-245 in *Documentary History of the Constitution of the United States of America, 1786-1870*, Volume I (published 1894), Volume II (published 1894), Volume III (published 1900), Volume IV (published 1905) and Volume V (Published 1905), published by the United States Department of State, Washington: Government Printing Office (now a public domain book available on the internet at: [catalog.hathitrust.org/Record/001141005](http://catalog.hathitrust.org/Record/001141005)).

[TEXT REPRINT:]

Philadelphia Aug. 8. 1791

Sir

Having understood that the legislature of Massachusetts some time ago ratified some of the amendments prepared by Congress to the Constitution, I am now to beg the favor of you to procure me an authentic copy of their proceedings therein, certified under the great seal of the State, letting me know at the same time the office charges for the copy, seal ct., which shall be remitted to you. The legislature of Massachusetts having been the 10<sup>th</sup> state which has ratified, makes up the threefourth of the legislatures whose ratification was to suffice. Consequently so much as they have approved, has become law, and it is proper that we should have it promulgated for the information of the judges, legislatures, and citizens generally. I will thank you if this can be done without delay, as I am to leave this place about three weeks hence to be absent for some time. I have the honor to be with great regard Sir

Your most obedient  
& most humble servt  
/S/ Thomas Jefferson

Christopher Gore, esq. Boston

Photo real copy of actual Thomas Jefferson's Official "Ratification Counting Chart", Text version of March 2, 1792 Circular Letter to Governors, and 11 page printed enclosure advising the State's of the ratifications as reported to the Secretary of State without commentary, comment, or "certification" as to which articles of amendment were deemed as having been ratified. (Original in National Archives).

THE PAPERS OF  
Thomas Jefferson

Volume 27

1 September to 31 December 1793

JOHN CATANZARITI, EDITOR

EUGENE R. SHERIDAN, SENIOR ASSOCIATE EDITOR

J. JEFFERSON LOONEY, ASSOCIATE EDITOR

ELIZABETH PETERS BLAZEJEWSKI AND LINDA MONACO,

EDITORIAL ASSISTANTS

JEAN-YVES M. LE SAUX, CONSULTING EDITOR



PRINCETON, NEW JERSEY  
PRINCETON UNIVERSITY PRESS

1997





## JEFFERSON'S CHART ON THE RATIFICATION OF THE BILL OF RIGHTS

As Secretary of State, Jefferson kept a tally of state actions on the twelve amendments to the Constitution proposed by Congress and submitted to the states by President Washington on 2 Oct. 1789. His chart, proceeding from north to south, must have been drawn before the admission of Vermont to the Union on 4 Mch. 1791—by which time nine states had already ratified the ten amendments known to contemporaries as the Bill of Rights—for Jefferson recorded Vermont's actions on the line between the columns for Connecticut and

[ li ]

New York. He did not learn until 30 Dec. 1791 and 18 Jan. 1792, respectively, that Virginia and Vermont had also ratified, thus providing the constitutionally mandated three-fourths majority for the amendments. There are no entries in the columns intended for Massachusetts, Connecticut, and Georgia because they did not ratify the Bill of Rights until 1939. The first two amendments proposed, the only ones not ratified contemporaneously by three-fourths of the states, dealt with the apportionment of members in the House of Representatives and with compensation for members of the House and the Senate. Jefferson enclosed a pamphlet recording the state-by-state ratification of the Bill of Rights in a 1 Mch. 1792 circular letter to the governors printed in the supplement to this volume. (*Courtesy of the Library of Congress*)

### THE GREAT CLOCK AT MONTICELLO

With this imposing mechanism, still hanging in the Entrance Hall at Monticello, Jefferson sought further to extend his zeal for chronological precision and control to his family and slaves. The seven-day clock included the interior face shown here, an exterior face on the East Portico with an hour-hand only, and a gong specially imported from China which struck on the hour and could be heard all over the estate. Power for the instrument has been supplied since 1804 by a set of fourteen cannonball-like weights of eighteen pounds each, which descend from the top corners of the Entrance Hall flanking the clock past wall markers for the days of the week through the floor into the cellar below. Jefferson himself often used a key to rewind the clock on Sundays while standing on an ingenious folding stepladder constructed at his joinery and still at Monticello. Documentary evidence for the Great Clock begins with Jefferson's undated directions for construction of the instrument, written in 1792 or 1793 and printed in the supplement to this volume, and with his letter of 13 Nov. 1792 asking Henry Remsen to help him acquire a gong. The mechanism was evidently complete by 27 Apr. 1793, when Jefferson paid Philadelphia clockmaker Robert Leslie for it, but when Jefferson set it up at his residence at Gray's Ferry just outside Philadelphia in the summer of 1793, it developed that Leslie's journeyman Peter Spurck, the actual builder, had bungled the work and was obliged to re-do the striking movement "on the common plan" in order to make the clock run. Brought to Monticello when Jefferson retired as Secretary of State, the Great Clock was installed by September 1794 and with occasional modifications and repairs has remained in use ever since. (*Courtesy of the Thomas Jefferson Monticello Foundation, Inc.*)

[ lii ]

# Circular to the Governors of the States

SIR

Philadelphia March 1st. 1792

I have the honor to send you herein enclosed two copies, duly authenticated, of an Act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein; also of an Act to establish the Post office and Post roads within the United States; also the ratifications, by three fourths of the Legislatures of the several States, of certain articles in addition to and amendment of the Constitution of the United States, proposed by Congress to the said Legislatures; and of being with sentiments of the most perfect respect Your Excellency's Most obedient & most humble servant

TH: JEFFERSON

RC (Vi); in the hand of Henry Remsen, signed by TJ; at foot of text: "His Excellency The Governor of the State of Virginia." RC (MdAA); in Remsen's hand, signed by TJ; at foot of text: "His Excellency The Governor of the State of Maryland." RC (NN); in the hand of George Taylor, Jr., signed by TJ; at foot of text: "To His Excellency the Governor of the State of Pennsylvania." FC (Lb in DNA: RG 59, DL); at head of text: "To the Governors of the Several States." Not recorded in SJJL. For the two enclosed acts of Congress, see *Annals*, III, 1329-41; see below for the other enclosure.

CERTAIN ARTICLES IN ADDITION TO AND AMENDMENT OF THE CONSTITUTION: the first ten amendments as passed by Congress and ratified by eleven of the fourteen states. TJ this day directed that the amendments and ratifications, as well as two amendments that were not ratified, be printed as a pamphlet for transmission to the state governors in the same manner as acts of Congress. The eleven-page booklet, enclosed in this letter, was the earliest official printing of the ratified Bill of Rights (*Congress of the United States: Begun and held at the City of New-York, on Wednesday the fourth of March, one thousand seven hundred and eighty-nine . . .* [Philadelphia, 1792],

Evans, No. 46596; Memorandum Book of the Department of State, DNA: RG 360, PCC, No. 187; Vincent L. Eaton, "Bill of Rights," *The New Colophon*, II [1949], 279-83; *Antiquarian Bookman*, VI [1950], 125; note to TJ to Christopher Gore, 8 Aug. 1791). For the steps leading to the transmission to the states of this landmark of American liberty, see Kenneth R. Bowling, "'A Tub to the Whale': The Founding Fathers and Adoption of the Federal Bill of Rights," *Journal of the Early Republic*, VIII (1988), 223-51. TJ's chart tracing state actions on the twelve amendments submitted to the states in 1789 is illustrated in this volume.

TJ dispatched this circular after receiving letters from Tobias Lear of 30 Dec. 1791 transmitting Virginia's ratification of the Bill of Rights with a covering letter from Governor Henry Lee to the President (RC in DLC, endorsed by TJ as received 30 Dec. 1791; PrC in DNA: RG 59, MLR; FC in Lb in same, SDC) and of 18 Jan. 1792 transmitting Vermont's ratification with a covering letter from Governor Thomas Chittenden to the President (RC in DNA: RG 11, Bill of Rights and Ratifications; PrC in DNA: RG 59, MLR; FC in Lb in same, SDC). Vermont's action provided the three-fourths majority required for amendments to the Constitution.

# Congress of the United States:

Begun and held at the City of New-York, on Wednesday  
the fourth of March, one thousand seven  
hundred and eighty-nine.

*THE CONVENTION of a number of the States having at the time of their adopting the CONSTITUTION expressed a desire in order to prevent misconstruction or ambiguity in power, that further declaratory and restrictive clauses should be added thereto as extending the ground of public confidence in the government, will be made, and the benefit ends of its institution.*

**RESOLVED** by the SENATE and HOUSE of REPRESENTATIVES of the United States of America in Congress assembled, *was laid on the table: That the following articles be proposed to the legislatures of the several States as amendments to the Constitution of the United States; all or any of which articles, when ratified by three fourths of the said legislatures, to be valid for all intents and purposes, as part of the said Constitution, viz:*

**ARTICLES** in Addition to, and Amendment of, the CONSTITUTION of the UNITED STATES of AMERICA, proposed by Congress, and ratified by three fourths of the several States, pursuant to the fifth Article of the original Constitution.

## ARTICLE THE FIRST.

AFTER the first enumeration required by the sixth article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred; after which the proportion shall be regulated by Congress, that there shall be not less than one hundred Representatives nor less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred, after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor more than one Representative for every fifty thousand persons.

## ARTICLE THE SECOND.

No law varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

## ARTICLE THE THIRD.

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

## ARTICLE THE FOURTH.

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

46596

U. S. Constitution.

Congress of the United States.... The Conventions of a

Number of States ... Amendments....

[ Philadelphia, Childs & Swaine, 1792. ] 11 pp.

LOC copy

RATIFICATIONS OF THE AMENDMENTS

TO THE CONSTITUTION

OF THE UNITED STATES

BY THE STATE OF NEW-HAMPSHIRE

UPON reading and maturely considering the proposed Amendments to the federal Constitution, Voted, To accept the whole of said Amendments, except the second article, which was rejected.

Sent up for concurrence THOMAS BARTLEY, Speaker.

In Senate, the same day, read and concurred. J. PEARSON, Secretary. A true copy. JOSEPH PEARSON, Secretary.

BY THE STATE OF NEW-YORK.

THE PEOPLE of the State of New-York, by the grace of God free and Independent.

KNOW YE, That we having inspected the records remaining in our Secretary's office, do find there a certain act of our legislature, in the words and figures following:

An ACT ratifying certain Articles in addition to, and amendment of, the Constitution of the United States of America, proposed by the Congress of America, in the fifth article of the Constitution of the United States of America, it is provided, that the Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to the said Constitution, which shall be valid to all intents and purposes as part of the said Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress.

And whereas in the session of the Congress of the United States of America begun and held at the city of New-York, on Wednesday the fourth of March, one thousand seven hundred and eighty-nine, it was resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following articles be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States; all or any of which articles, when ratified by three-fourths of the said Legislatures, to be valid to all intents and purposes as part of the said Constitution, viz.

[Here follow verbatim the 1st, 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, and 12th articles of the said Amendments, proposed by Congress to the Legislatures of the several States.]

ARTICLE THE FIFTH.

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

ARTICLE THE SIXTH.

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

ARTICLE THE SEVENTH.

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

ARTICLE THE EIGHTH.

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

ARTICLE THE NINTH.

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

ARTICLE THE TENTH.

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

ARTICLE THE ELEVENTH.

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

ARTICLE THE TWELFTH.

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

FREDERICK AUGUSTUS MUILENBERG, Speaker of the House of Representatives.

JOHN ADAMS, Vice-President of the United States, and President of the Senate.

JOHN JACKLEY, Clerk of the House of Representatives, and Secretary of the Senate.

And whereas the Legislature of this State have considered the said articles, and do agree to the same, except the second article: Therefore, BE it enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the said articles, except the second, shall be and hereby are ratified by the Legislature of this State.

STATE of New-York, in Assembly, February 22, 1790.

This bill having been read the third time,  
Resolved, That the bill do pass.

By order of the Assembly,

GULIAN VERPLANCK, Speaker.

STATE of New-York, in Senate, February 24, 1790.

This bill having been read a third time,  
Resolved, That the bill do pass.

By order of the Senate,

ISAAC ROOSEVELT, President pro hoc vice.

COUNCIL of Revision, February 27, 1790.

Resolved, That it does not appear improper to the Council, that this bill, entitled, "An act raising certain articles in addition to, and amendment of the Constitution of the United States of America, proposed by the Congress," should become a law of this State.

GEO: CLINTON.  
All which we have caused to be exemplified by these presents. In testimony whereof, we have caused these our letters to be made public, and the great seal of our said state to be hereunto affixed. Witnesses our trusty and well-beloved George Clinton, Esquire, governor of our said state, general and commander in chief of all the militia, and admiral of the navy of the same, at our city of New-York, the twenty-seventh day of March, in the year one thousand seven hundred and ninety, and in the fourteenth year of our independence.

Seal.

GEO: CLINTON

Passed the Secretary's Office, the 27th March, 1790.

LEWIS A. SCOTT, Secretary.

By THE STATE of PENNSYLVANIA.

In GENERAL ASSEMBLY.

In pursuance of a resolution of the General Assembly of the State of Pennsylvania, being the legislature thereof; I do hereby certify that the paper hereunto annexed contains an exact and true exemplification of the act whereof it purports to be a copy, by virtue whereof the several amendments therein mentioned, proposed to the Constitution of the United States, were on the part of the Commonwealth of Pennsylvania, agreed to, ratified and confirmed.

GIVEN under my hand, and the seal of the State, this eleventh day of March, in the year of our Lord one thousand seven hundred and ninety.

Seal.

RICHARD PETERS, Speaker.

An ACT declaring the Assent of this State to certain Amendments to the Constitution of the United States.

SECTION 1. WHEREAS in pursuance of the fifth article of the Constitution of the United States, certain articles of amendment to the said Constitution, have been proposed by the Congress of the United States, for the consideration of the Legislatures of the several States: And whereas this House, being the Legislature of the State of Pennsylvania, having maturely deliberated thereupon, have resolved to adopt and ratify the articles hereafter enumerated, as part of the Constitution of the United States.

SECTION 2. Be it therefore enacted, and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania, in General Assembly met; and by the authority of the same; That the following amendments to the Constitution of the United States, proposed by the Congress thereof, viz.:

[Here follow the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles, which were proposed by Congress to the Legislatures of the several States, as amendments to the Constitution of the United States.]

Be, and they are hereby ratified on behalf of this State, to become, when ratified by the Legislatures of three fourths of the several States, part of the Constitution of the United States.

Signed by order of the House,

RICHARD PETERS, Speaker.

Enacted into a law, at Philadelphia, on Wednesday the tenth day of March, in the year of our Lord one thousand seven hundred and ninety.

PETER ZACHARY LLOYD, Clerk of the General Assembly.  
I, Matthew Irwin, Esquire, master of the rolls for the State of Pennsylvania, do certify the preceding writing to be a true copy (or exemplification) of a certain law remaining in my office.

Witness my hand and seal of office, the 13th March, 1790.

MATTHEW IRWIN, M. R.

By THE STATE of DELAWARE.

THE General Assembly of Delaware having taken into their consideration the above amendments proposed by Congress, to the respective Legislatures of the several States:

Resolved: That the first article be postponed.

Resolved, That the General Assembly do agree to the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth articles; and we do hereby assent to, ratify and confirm the same, as part of the Constitution of the United States.

In Testimony whereof, we have caused the great seal of the State to be hereunto affixed, this twenty-eighth day of January, in the year of our Lord one thousand seven hundred and ninety, and in the fourteenth year of the Independence of the Delaware State.

Signed by order of Council,

GEO. MITCHELL, Speaker.

Signed by order of the House of Assembly,  
JESU-DAN-VIS, Speaker.

B

By THE STATE OF MARYLAND.

An ACT to ratify certain Articles in addition to, and amendments of, the Constitution of the United States of America, proposed by Congress to the Legislatures of the several States.

WHEREAS it is provided by the fifth article of the Constitution of the United States of America, that Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to the said Constitution; or on the application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of the said Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other modes of ratification may be proposed by the Congress;

And whereas at a session of the United States, begun and held at the city of New-York, on Wednesday the fourth-day of March, in the year of our Lord one thousand seven hundred and eighty-nine, it was resolved by the Senate and House of Representatives of the said United States in Congress assembled, two-thirds of both Houses concurring, that the following articles be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States, all or any of which articles, when ratified by three-fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution, viz.

[Here follow verbatim the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the said amendments, proposed by Congress to the Legislatures of the several States.]

Be it enacted by the General Assembly of Maryland, That the aforesaid articles and each of them be, and they are hereby confirmed and ratified.

By the HOUSE of DELEGATES, December 17th, 1789.

Read and assented to. W. HARWOOD, Clerk.

By the SENATE, December 19th, 1789.

Read and assented to. H. RIDGELY, Clerk.

J. E. HOWARD. Seal.

I HEREBY certify that the above is a true copy from the original engrossed act, as passed by the Legislature of the State of Maryland.

T. JOHNSON, jun. Clerk Council.

By THE STATE OF SOUTH-CAROLINA.

In the House of REPRESENTATIVES, January 1st, 1790.

THE House took into consideration the report of the committee, to whom was referred the resolution of the Congress of the United States of the fourth day of March, one thousand seven hundred and eighty-nine, proposing amendments to the Constitution of the United States, viz.

[Here follow verbatim the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the said amendments, proposed by Congress to the Legislatures of the several States.]

Which being read through, was agreed to. — Whereupon, Resolved, That this House do adopt the said several articles, and that they become a part of the Constitution of the United States.

Resolved, That the resolutions be sent to the Senate for their concurrence.

By order of the House, JACOB REED, Speaker of the House of Representatives.

In the SENATE, January 19th, 1790.

Resolved, That this House do concur with the House of Representatives in the foregoing resolutions.

By order of the Senate, D. DE SAUSSURE, President of the Senate.

By THE STATE OF NORTH-CAROLINA.

An ACT to ratify the Amendments to the Constitution of the United States.

WHEREAS the Senate and House of Representatives of the United States of America in Congress assembled, on the fourth day of March, did resolve, two thirds of both Houses concurring, that the following articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all or any of which articles when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes as part of the said Constitution.

[Here follow verbatim the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the said amendments, proposed by Congress to the Legislatures of the several States.]

Be it therefore enacted by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same, That the said amendments agreeable to the fifth article of the original Constitution, be held and ratified on the part of this State, as articles in addition to, and amendments of the Constitution of the United States of America.

CHAS. JOHNSON, S. S.

S. CABARRUS, C. H. C.

Read three times and ratified in General Assembly, this 22d day of December, Anno Domini 1789.

STATE OF NORTH-CAROLINA.

I, James Glasgow, Secretary of the said State, do hereby certify the foregoing to be a true copy of the original act of the Assembly, filed in the Secretary's office. In testimony whereof, I have hereto set my hand, this tenth day of February, 1790.

J. GLASGOW.

By THE STATE OF RHODE-ISLAND and PROVIDENCE PLANTATIONS.

In General Assembly, June Session, A. D. 1790.

An ACT for ratifying certain Articles as Amendments to the Constitution of the United States of America, and which were proposed by the Congress of the said States, at their session in March, A. D. 1789, to the Legislatures of the several States, pursuant to the fifth article of the aforesaid Constitution.

Be it enacted by this General Assembly, and by the authority hereof, that it be and it is hereby enacted, That the following articles, proposed by the Congress of the United States of America, at their session in March, A. D. 1789, to the Legisla-

tures of the several States for ratification, as amendments to the Constitution of the said United States, pursuant to the fifth article of the said Constitution, be, and the same are hereby fully assented to, and ratified on the part of this State, to wit:

[Here follow verbatim the 1st, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, and 12th articles of the said amendments, proposed by Congress to the Legislatures of the several States.]

It is ordered, That his excellency the Governor be, and he is hereby requested, to transmit to the President of the said United States, under the seal of this State, a copy of this act, to be communicated to the Senate and House of Representatives of the Congress of the said United States.

A true copy duly examined.

Witness, HENRY WARD, Secretary.

BY THE STATE OF NEW-JERSEY.

An act to ratify on the part of this State certain Amendments to the Constitution of the United States.

WHEREAS the Congress of the United States, begun and held at the city of New-York, on Wednesday the fourth day of March, one thousand seven hundred and eighty-nine, resolved, two-thirds of both Houses concurring, That sundry articles be proposed to the Legislatures of the several States as amendments to the Constitution of the United States, all or any of which articles, when ratified, by three-fourths of the said Legislatures, to be valid to all intents and purposes as part of the said Constitution.

And whereas the President of the United States, did, in pursuance of a resolve of the Senate and House of Representatives of the United States of America, in Congress assembled, transmit to the Governor of this State the amendments proposed by Congress, which were by him laid before the Legislature for their consideration. Wherefore,

1. Be it enacted by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same, That the following articles proposed by Congress, in addition to, and amendment of the constitution of the United States, to wit:

[Here follow, verbatim, the first, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles of the said amendments, proposed by Congress to the legislatures of the several States.]

Be, and the same are hereby ratified and adopted by the State of New-Jersey.

House of Assembly, November 19th, 1789.

Resolved, That the same do pass.

By order of the House, JOHN BEATTY, Speaker.

COUNCIL-CHAMBER, November 20, 1789.

Resolved, That the same do pass.

By order of the House, WIL LIVINGSTON, President.

City of Burlington, State of New-Jersey, August 3, A. D. 1790.

THESE are to certify that the annexed law is a true copy taken from the original, inrolled in my office.

BOWEN REED, Secretary.

BY THE STATE OF PENNSYLVANIA.

An ACT ratifying on behalf of the State of Pennsylvania, the first amendment proposed by Congress to the Constitution of the United States.

WHEREAS in pursuance of the fifth article of the Constitution of the United States, certain articles in addition to, and amendment of the said Constitution, have been proposed by the Congress of the United States, for the consideration of the legislatures of the several States; and whereas the legislature of the state of Pennsylvania, having maturely deliberated thereupon, have resolved to adopt and ratify the article hereafter mentioned, as part of the Constitution of the United States.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the following article in addition to, and amendment of the Constitution of the United States of America, proposed by the Congress thereof, viz.

[here article the first was inserted verbatim]

be, and it is hereby ratified on behalf of the state of Pennsylvania, to become, when ratified by the legislatures of three fourths of the several States, part of the Constitution of the United States.

Wm. BINGHAM, Speaker of the House of Representatives.

RICHARD PATTON, Speaker of the Senate.

Approved Sept. 21, 1791. THOMAS MIFFLIN, Governor of the Commonwealth of Pennsylvania.

I Mathew Irwin, Esq. Master of Rolls for the state of Pennsylvania, do certify, the preceding writing to be a true copy [or exemplification] of a law inrolled in my office in law book No. 4, page 214, &c. In witness whereof I have hereunto set my hand and seal of office the 12th day of October, A. D. 1791.

MATHEW IRWIN, M. R. (L. S.)

BY THE STATE OF VIRGINIA.

General Assembly, begun and held at the capitol in the city of Richmond, on Monday the seventeenth day of October, in the year of our Lord one thousand seven hundred and ninety-one.

RESOLVED, That the first article of the amendments proposed by Congress to the Constitution of the United State, be ratified by this Commonwealth.

JOHN PRIDE, S. S. THO: MATHEWS, S. H. D.

Agreed to by the Senate. Ex'd.

MONDAY, the 31st December, 1791.

RESOLVED, That the second article of the amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

JOHN PRIDE, S. S. THO: MATHEWS, S. H. D.

Agreed to by the Senate. Ex'd.



MONDAY, the 5th December, 1791.  
RESOLVED, That the third article of the amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.  
JOHN PRIDE, S. S.  
THO: MATHEWS, S. H. D.  
December 15th, 1791.  
Agreed to by the Senate.  
Ex'd. Ex'd.

MONDAY, the 5th December, 1791.  
RESOLVED, That the fourth article of the amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.  
JOHN PRIDE, S. S.  
THO: MATHEWS, S. H. D.  
December 15th, 1791.  
Agreed to by the Senate.  
Ex'd. Ex'd.

MONDAY, the 5th December, 1791.  
RESOLVED, That the fifth article of the amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.  
JOHN PRIDE, S. S.  
THO: MATHEWS, S. H. D.  
December 15th, 1791.  
Agreed to by the Senate.  
Ex'd. Ex'd.

MONDAY, the 5th December, 1791.  
RESOLVED, That the sixth article of the amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.  
JOHN PRIDE, S. S.  
THO: MATHEWS, S. H. D.  
December 15th, 1791.  
Agreed to by the Senate.  
Ex'd. Ex'd.

MONDAY, the 5th December, 1791.  
RESOLVED, That the seventh article of the amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.  
JOHN PRIDE, S. S.  
THO: MATHEWS, S. H. D.  
December 15th, 1791.  
Agreed to by the Senate.  
Ex'd. Ex'd.

MONDAY, the 5th December, 1791.  
RESOLVED, That the eighth article of the amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.  
JOHN PRIDE, S. S.  
THO: MATHEWS, S. H. D.  
December 15th, 1791.  
Agreed to by the Senate.  
Ex'd. Ex'd.

MONDAY, the 5th December, 1791.  
RESOLVED, That the ninth article of the amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.  
JOHN PRIDE, S. S.  
THO: MATHEWS, S. H. D.  
December 15th, 1791.  
Agreed to by the Senate.  
Ex'd. Ex'd.

MONDAY, the 5th of December, 1791.  
RESOLVED That the tenth article of the amendments proposed by Congress to the Constitution of the United States be ratified by this Commonwealth.  
JOHN PRIDE, S. S.  
THO: MATHEWS, S. H. D.  
December 15th, 1791.  
Agreed to by the Senate.  
Ex'd. Ex'd.

MONDAY, the 5th of December, 1791.  
RESOLVED That the eleventh article of the amendments proposed by Congress to the Constitution of the United States be ratified by this Commonwealth.  
JOHN PRIDE, S. S.  
THO: MATHEWS, S. H. D.  
December 15th, 1791.  
Agreed to by the Senate.  
Ex'd. Ex'd.

MONDAY, the 5th of December, 1791.  
RESOLVED That the twelfth article of the amendments proposed by Congress to the Constitution of the United States be ratified by this Commonwealth.  
JOHN PRIDE, S. S.  
THO: MATHEWS, S. H. D.  
December 15th, 1791.  
Agreed to by the Senate.  
Ex'd. Ex'd.

BY THE STATE OF VERMONT.

An Act ratifying certain Articles proposed by Congress as Amendments to the Constitution of the United States.

WHEREAS the Congress of the United States, begun and held at the city of New York, on Wednesday the fourth of March, one thousand seven hundred and eighty-nine; Resolved, that certain articles, to the number of twelve, be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, which articles, when ratified by three-fourths of the said Legislatures, should be valid to all intents and purposes as part of the said Constitution; Therefore,  
It is hereby enacted by the General Assembly of the State of Vermont, That all and every of said articles so proposed as aforesaid, be and the same are hereby, ratified and confirmed by the Legislature of this State.

State of Vermont, Secretary of State's Office, &c.  
I hereby certify that the within is a true copy of an act, passed by the Legislature of this State, the third day of November, one thousand seven hundred and ninety-one, and deposited in this office according to law.

ROSWELL HOPKINS, Secy.

Excerpts from *The United States Statutes at Large* (1846) published privately (but Federal Government authorized) by Little Brown & Co., Boston, Massachusetts, Edited by Richard Peters, Esq.

- *Chapter XIV – An Act to provide for the safe-keeping of the Acts, Records and Seal of the United States, and for other purposes* (Approved: September 15, 1789), codified as of 1846 at 1 *Stat.* 68 (1789).
- The “Bill of Rights” codified as of 1846 at 1 *Stat.* 97 (1789) (\* *Undated, but “approved” September 25, 1789, and “signed as engrossed” September 28, 1789*).



A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774 - 1875

[Statutes at Large](#)

Page i



[PREV IMAGE](#) | [NEXT IMAGE](#)

[A Century of Lawmaking](#) | [Higher Quality Image \(TIFF - 26K\)](#)

BY AUTHORITY OF CONGRESS.

---

THE  
**Public Statutes at Large**  
OF THE  
**UNITED STATES OF AMERICA,**  
FROM THE  
ORGANIZATION OF THE GOVERNMENT IN 1789, TO MARCH 3, 1845.  
ARRANGED IN CHRONOLOGICAL ORDER.  
WITH  
REFERENCES TO THE MATTER OF EACH ACT AND TO THE SUBSEQUENT ACTS  
ON THE SAME SUBJECT,  
AND  
COPIOUS NOTES OF THE DECISIONS  
OF THE  
**Courts of the United States**  
CONSTRUING THOSE ACTS, AND UPON THE SUBJECTS OF THE LAWS.  
WITH AN  
INDEX TO THE CONTENTS OF EACH VOLUME,  
AND A  
FULL GENERAL INDEX TO THE WHOLE WORK, IN THE CONCLUDING VOLUME.  
TOGETHER WITH  
*The Declaration of Independence, the Articles of Confederation, and  
the Constitution of the United States;*  
AND ALSO,  
TABLES, IN THE LAST VOLUME, CONTAINING LISTS OF THE ACTS RELATING TO THE JUDICIARY,  
IMPOSTS AND TONNAGE, THE PUBLIC LANDS, ETC.

EDITED BY  
**RICHARD PETERS, ESQ.,**  
COUNSELLOR AT LAW.

The rights and interest of the United States in the stereotype plates from which this work is printed, are hereby recognised, acknowledged, and declared by the publishers, according to the provisions of the joint resolution of Congress, passed March 3, 1844.

VOL. I.

BOSTON:  
CHARLES C. LITTLE AND JAMES BROWN.  
1845.

[A Century of Lawmaking](#) | [Higher Quality Image \(TIFF - 26K\)](#)

Page i



[PREV IMAGE](#) | [NEXT IMAGE](#)

to the Governor of the western territory, for his salary as such, and for discharging the duties of superintendent of Indian affairs in the northern department, two thousand dollars; to the three judges of the western territory each, eight hundred dollars; to the Assistant of the Secretary of the Treasury, fifteen hundred dollars; to the Chief Clerk in the Department of State, eight hundred dollars; to the Chief Clerk in the Department of War, six hundred dollars; to the Secretary of the western territory, seven hundred and fifty dollars; to the principal Clerk of the Comptroller, eight hundred dollars; to the principal Clerk of the Auditor, six hundred dollars; to the principal Clerk of the Treasurer, six hundred dollars.

Heads of departments to appoint clerks. Their salaries.

SEC. 2. *And be it further enacted*, That the heads of the three departments first above mentioned, shall appoint such clerks therein respectively as they shall find necessary; and the salary of the said clerks respectively shall not exceed the rate of five hundred dollars per annum.

APPROVED, September 11, 1789.

## STATUTE I.

Sept. 16, 1789.

[Obsolete.]

[Act of July 27, 1789, ch. 4.] Department of foreign affairs changed to the department of state.

Additional duties assigned the secretary of the said department.

CHAP. XIV.—*An Act to provide for the safe-keeping of the Acts, Records and Seal of the United States, and for other purposes.*

SECTION. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Executive department, denominated the Department of Foreign Affairs, shall hereafter be denominated the Department of State, and the principal officer therein shall hereafter be called the Secretary of State.

SEC. 2. *And be it further enacted*, That whenever a bill, order, resolution, or vote of the Senate and House of Representatives, having been approved and signed by the President of the United States, or not having been returned by him with his objections, shall become a law, or take effect, it shall forthwith thereafter be received by the said Secretary from the President; and whenever a bill, order, resolution, or vote, shall be returned by the President with his objections, and shall, on being reconsidered, be agreed to be passed, and be approved by two-thirds of both Houses of Congress, and thereby become a law or take effect, it shall, in such case, be received by the said Secretary from the President of the Senate, or the Speaker of the House of Representatives, in whichever House it shall last have been so approved; and the said Secretary shall, as soon as conveniently may be, after he shall receive the same, cause every such law, order, resolution, and vote, to be published in at least three of the public newspapers printed within the United States, and shall also cause one printed copy to be delivered to each Senator and Representative of the United States, and two printed copies duly authenticated to be sent to the Executive authority of each State; and he shall carefully preserve the originals, and shall cause the same to be recorded in books to be provided for the purpose. (a)

Act of March 2, 1799, ch. 30, sec. 1.

Seal of the U. States.

Secretary to keep and affix the seal to all civil commissions.

SEC. 3. *And be it further enacted*, That the seal heretofore used by the United States in Congress assembled, shall be, and hereby is declared to be, the seal of the United States.

SEC. 4. *And be it further enacted*, That the said Secretary shall keep the said seal, and shall make out and record, and shall affix the said seal to all civil commissions, to officers of the United States, to be appointed by the President by and with the advice and consent of the

were to be five auditors and one comptroller, and the salary of each of these officers was fixed at three thousand dollars.

(a) The acts for the general promulgation of the laws of the United States have been: The act of March 3, 1796; act of December 31, 1796; act of March 2, 1799, chap. 30; act of November 21, 1814; act of April 20, 1818, chap. 76; act of May 11, 1820, chap. 92. By the 21st section of the act of August 26, 1842, chap. 202, the laws of the United States are required to be published in not less than two nor more than four newspapers in Washington.



FIRST CONGRESS. Sess. I. Cu. 15. 1780.

69

Senate, or by the President alone. *Provided*, That the said seal shall not be affixed to any commission, before the same shall have been signed by the President of the United States, nor to any other instrument or act, without the special warrant of the President therefor.

SEC. 5. *And be it further enacted*, That the said Secretary shall cause a seal of office to be made for the said department of such device as the President of the United States shall approve, and all copies of records and papers in the said office, authenticated under the said seal, shall be evidence equally as the original record or paper.

Secretary to provide a seal of office.

SEC. 6. *And be it further enacted*, That there shall be paid to the Secretary, for the use of the United States, the following fees of office, by the persons requiring the services to be performed, except when they are performed for any officer of the United States, in a matter relating to the duties of his office, to wit: For making out and authenticating copies of records, ten cents for each sheet, containing one hundred words; for authenticating a copy of a record or paper under the seal of office, twenty-five cents.

Fees of office to be paid for the use of the U. States.

SEC. 7. *And be it further enacted*, That the said Secretary shall forthwith after his appointment be entitled to have the custody and charge of the said seal of the United States, and also of all books, records and papers, remaining in the office of the late Secretary of the United States in Congress assembled; and such of the said books, records and papers, as may appertain to the Treasury department, or War department, shall be delivered over to the principal officers in the said departments respectively, as the President of the United States shall direct.

Secretary to have custody of papers, &c. of late Congress.

APPROVED, September 15, 1780.

STATUTE I.

CHAP. XV.—*An Act to suspend part of an Act, intituled "An Act to regulate the collection of the Duties imposed by Law on the Tonnage of Ships or Vessels, and on Goods, Wares, and Merchandises, imported into the United States," and for other purposes.*

Sept. 16, 1789.  
[Obsolete.]

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That so much of the act, intituled "An act to regulate the collection of the duties imposed by law, on the tonnage of ships or vessels, and on goods, wares, and merchandises, imported into the United States," as obliges ships or vessels bound up the river Potomac, to come to and deposit manifests of their cargoes, with the officers at St. Mary's and Yeocomico, before they proceed to their port of delivery, shall be and is hereby suspended until the first day of May next.

Restriction on vessels bound up the Potomac suspended. (Act of July 21, 1789, § 4.)

SEC. 2. *And be it further enacted*, That all the privileges and advantages to which ships and vessels owned by citizens of the United States, are by law entitled, shall be, until the fifteenth day of January next, extended to ships and vessels wholly owned by citizens of the States of North Carolina, and Rhode Island and Providence Plantations. *Provided*, That the master of every such ship or vessel last mentioned, shall produce a register for the same, conformable to the laws of the state in which it shall have been obtained, showing that the said ship or vessel is, and before the first day of September instant, was owned as aforesaid, and make oath or affirmation, before the collector of the port in which the benefit of this act is claimed, that the ship or vessel for which such register is produced, is the same therein mentioned, and that he believes it is still wholly owned by the person or persons named in said register, and that he or they are citizens of one of the states aforesaid.

Privileges of ships, &c. of the U. States extended to ships &c. of N. Carolina and Rhode Island, until the 15th January next.

SEC. 3. *And be it further enacted*, That all rum, loaf sugar, and



FIRST CONGRESS. SESS. I. RESOLUTIONS. 1789. 97

like penalties as in the case of prisoners committed under the authority of such States respectively; the United States to pay for the use and keeping of such gaols, at the rate of fifty cents per month for each prisoner that shall, under their authority, be committed thereto, during the time such prisoner shall be therein confined; and also to support such of said prisoners as shall be committed for offences.

receive and keep prisoners committed under authority of the United States.

APPROVED, September 23, 1789.

3. RESOLVED, That it shall be the duty of the Secretary of State, to procure from time to time such of the statutes of the several states as may not be in his office.

Secretary of State to procure the statutes of the States.

APPROVED, September 23, 1789.

*The Conventions of a number of the States having at the time of their adopting the Constitution expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the government will best insure the beneficent ends of its institution—*

RESOLVED by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring, That the following articles be proposed to the legislatures of the several states, as amendments to the constitution of the United States, all or any of which articles, when ratified by three fourths of the said legislatures, to be valid to all intents and purposes, as part of the said Constitution, viz.:

Amendments to the Constitution of the United States.

ARTICLES in addition to, and amendment of, the Constitution of the United States of America, proposed by Congress and ratified by the Legislatures of the several States, pursuant to the fifth article of the original Constitution.

ART. I. After the first enumeration required by the first article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be 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.

ART. II. No law varying the compensation for the services of the Senators and Representatives shall take effect, until an election of Representatives shall have intervened.

Adopted.

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

Adopted.

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

Adopted.

ART. V. 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.

Adopted.

ART. VI. 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, sup-

98

## FIRST CONGRESS. SESS. I. RESOLUTION. 1789.

ported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

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

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

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

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

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

Adopted. ART. XII. 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.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That John White, late a commissioner to settle the accounts between the United States and the states of Pennsylvania, Delaware, and Maryland, and his clerks, John Wright, and Joshua Dawson, be considered as in office until the fourth day of February, one thousand seven hundred and eighty-nine.*  
APPROVED, September 29, 1789.

Excerpts from *Journal of the House of Representatives, First Session of the First Congress*, in the version as commercially published (but Federal Government authorized) by Gales & Seaton, Washington (1826).

- Friday August 21, 1789
- Thursday September 24, 1789



[The Library of Congress](#)

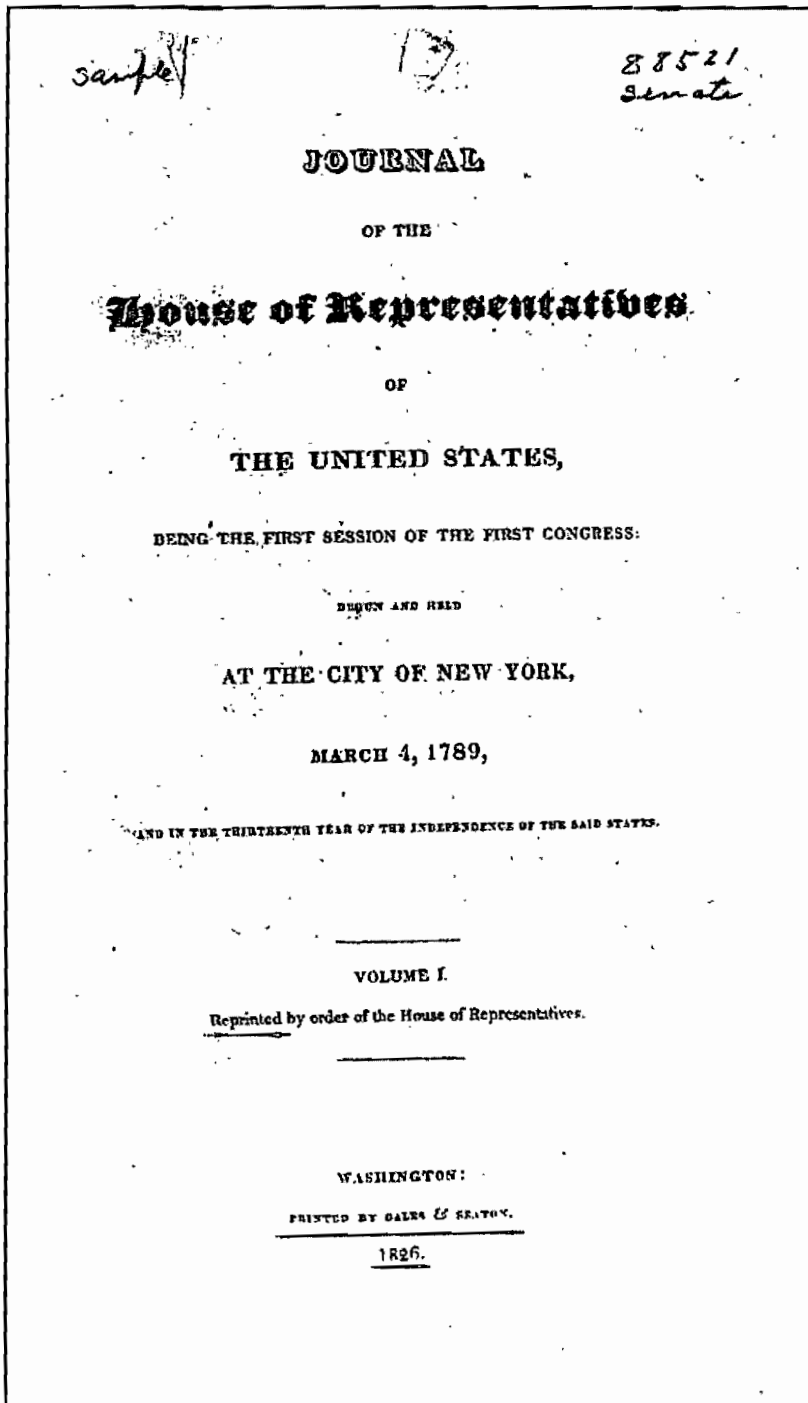


**A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774 - 1875**  
Journal of the House of Representatives of the United States, Volume 1

Turn to image

[NEXT IMAGE](#)

[Back to Text](#) | [New Search](#) | [A Century of Lawmaking](#) | [Higher Quality Image \(TIFF - 12K\)](#)



[Back to Text](#) | [New Search](#) | [A Century of Lawmaking](#) | [Higher Quality Image \(TIFF - 12K\)](#)



1789.] OF REPRESENTATIVES. 85

and prescribing their form; and for establishing the fees of office to be taken for making such commissions; and for copies of records and papers; were read, and postponed until to-morrow.

And then the House adjourned until to-morrow morning eleven o'clock.

FRIDAY, AUGUST 21.

The House resumed the consideration of the amendments made by the Committee of the Whole House to the report from the committee of eleven, to whom it was referred to take the subject of amendments to the Constitution of the United States, generally, into their consideration; and, the said amendments being partly agreed to, and partly disagreed to,

The House proceeded to consider the original report of the committee of eleven, consisting of seventeen articles, as now amended; whereupon the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, and sixteenth articles being again read and debated, were, upon the question severally put thereupon, agreed to by the House, as follows, two-thirds of the members present concurring, to wit:

"1. After the first enumeration, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred; after which, the proportion shall be so regulated by Congress, that 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, that there shall not be less than two hundred Representatives, nor less than one Representative for every fifty thousand persons.

2. No law varying the compensation of the members to Congress shall take effect, until an election of Representatives shall have intervened.

3. Congress shall make no law establishing religion, or prohibiting the free exercise thereof, nor shall the rights of conscience be infringed.

4. The freedom of speech, and of the press, and the right of the People peaceably to assemble and consult for their common good, and to apply to the Government for redress of grievances, shall not be infringed.

5. A well regulated militia, composed of the body of the People, being the best security of a free State, the right of the People to keep and bear arms shall not be infringed; but no one religiously scrupulous of bearing arms, shall be compelled to render military service in person.

6. 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.

7. No person shall be subject, except in case of impeachment, to more than one trial or one punishment for the same offence; nor shall be compelled, in any criminal case, to be 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.

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

9. 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.

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

11. No State shall infringe the right of trial by jury in criminal cases; nor the rights of conscience; nor the freedom of speech or of the press.

12. No appeal to the Supreme Court of the United States shall be allowed, where the value in controversy shall not amount to one thousand dollars; nor shall any fact, triable by a jury according to the course of the common law, be otherwise re-examinable than according to the rules of common law.

13. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

14. The trial of all crimes, (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger,) shall be by an impartial jury of the vicinage, with the requisite of unanimity







A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774 - 1875  
Journal of the House of Representatives of the United States, Volume 1

Page 120 of 831

Turn to image

120

[PREV IMAGE](#) | [NEXT IMAGE](#)

[Back to Text](#) | [New Search](#) | [A Century of Lawmaking](#) | [Higher Quality Image \(TIFF - 62K\)](#)

120

## JOURNAL OF THE HOUSE

[1789.]

A message was received from the President of the United States, notifying that the President approves of the act, entitled "An act for allowing certain compensation to the Judges of the Supreme and other Courts, and to the Attorney General of the United States;" also, the resolve for procuring, from time to time, the statutes of the several States; and has this day affixed his signature to the same. And the messenger delivered in the said act and resolve, and then withdrew.

*Ordered*, That the Clerk of this House do acquaint the Senate therewith.

The House, according to the order of the day, resolved itself into a Committee of the Whole House on the bill sent from the Senate, entitled "An act to regulate processes in the Courts of the United States."

Mr. Speaker left the chair.

Mr. Boudinot took the chair of the committee.

Mr. Speaker resumed the chair, and Mr. Boudinot reported that the committee had, according to order, had the said bill under consideration, and made some progress therein.

*Resolved*, That this House will, to-morrow, again resolve itself into a Committee of the Whole House on the said bill.

Mr. Madison, from the managers appointed on the part of this House to attend a conference with the Senate, on the subject matter of the amendments depending between the two Houses to the articles of amendment to the Constitution of the United States, agreed to by this House, and sent to the Senate for their concurrence, made a report; which was read, and ordered to lie on the table.

The orders of the day for the House to resolve itself into a Committee of the Whole House on the bill for establishing a Land Office in and for the Western Territory; also, on the bill making provision for the Invalid Pensioners of the United States; were read, and postponed until to-morrow.

And then the House adjourned until to-morrow morning ten o'clock.

## THURSDAY, SEPTEMBER 24.

An engrossed bill to explain and amend the act, entitled "An act for registering and clearing vessels, regulating the coasting trade, and for other purposes," was read the third time, and a blank therein filled up.

*Resolved*, That the said bill do pass, and that the title be, "An act to explain and amend the act, entitled 'An act for registering and clearing vessels, regulating the coasting trade, and for other purposes.'"

*Ordered*, That the Clerk of this House do carry the said bill to the Senate, and desire their concurrence.

An engrossed bill to alter the time for the annual meeting of Congress was read the third time.

*Resolved*, That the said bill do pass, and that the title be, "An act to alter the time for the next meeting of Congress."

*Ordered*, That the Clerk of this House do carry the said bill to the Senate, and desire their concurrence.

An engrossed bill making appropriations for the service of the present year, was read the third time; and, on a motion made, ordered to be re-committed to a Committee of the Whole House this day.

Mr. Geny, from the committee to whom it was referred to prepare an estimate of the gross amount and nett produce of the impost and tonnage duties for one year, made a report; which was read, and ordered to lie on the table.

On motion,

*Ordered*, That a committee be appointed to ascertain the amount of the compensations due to the members of this House, respectively, and of the several officers thereof, together with the contingent expenses of the session;

And a committee was appointed, of Mr. Fitzsimons, Mr. Smith, of Maryland, and Mr. Baldwin.

A petition of Thomas Barclay was presented to the House and read, praying that he may receive compensation for services rendered to the United States in various public stations in Europe.

*Ordered*, That the said petition do lie on the table.

A message was received from the President of the United States, notifying that the President approves of the act making compensation to the President and Vice President of the United States, and has this day affixed his signature thereto. And the messenger delivered in the said act, and then withdrew.





**122      JOURNAL OF THE HOUSE      [1789.]**

On motion,  
*Resolved*, That the President of the United States be requested to transmit to the Executives of the several States which have ratified the Constitution, copies of the amendments proposed by Congress to be added thereto; and like copies to the Executives of the States of Rhode Island and North Carolina.

*Ordered*, That the Clerk of this House do carry the said resolution to the Senate, and desire their concurrence.

The House, according to the order of the day, resolved itself into a Committee of the Whole House on the bill making appropriations for the service of the present year.

Mr. Speaker left the chair.

Mr. Boudinot took the chair of the committee.

Mr. Speaker resumed the chair, and Mr. Boudinot reported that the committee had, according to order, had the said bill under consideration, and gone through the same, and made an amendment thereto; which he read in his place, and afterwards delivered in at the Clerk's table, where the same was again read, and, together with the said bill, ordered to lie on the table.

The House, according to the order of the day, resolved itself into a Committee of the Whole House on the bill making provision for the Invalid Pensioners of the United States.

Mr. Speaker left the chair.

Mr. Boudinot took the chair of the committee.

Mr. Speaker resumed the chair, and Mr. Boudinot reported that the committee had, according to order, had the said bill under consideration, and made no amendment thereto.

*Ordered*, That the said bill be re-committed to Mr. Wadsworth, Mr. Heister, and Mr. Gilman.

The House, according to the order of the day, resolved itself into a Committee of the Whole House on the bill sent from the Senate, entitled "An act to regulate processes in the Courts of the United States."

Mr. Speaker left the chair.

Mr. Boudinot took the chair of the committee.

Mr. Speaker resumed the chair, and Mr. Boudinot reported that the committee had, according to order, had the said bill under consideration, and gone through the same, and made several amendments thereto; which he read in his place, and afterwards delivered in at the Clerk's table, where the same were again read, and are as followeth: Section first, line third, strike out the words '*the President of*.' Section second, line third, after the word '*fees*,' insert '*except fees to judges*.' Line fifth, after the words '*and that*,' insert '*forms and modes of*.' Line eighth, after the words '*civil law*,' insert '*and the rates of the fees the same as are, or were last allowed by the States, respectively, in the court exercising supreme jurisdiction in such causes*.'

The first amendment was read the second time, and the question being put, That the House do agree to the same,

It was resolved in the affirmative, { Ayes ..... 25,  
  { Noes ..... 18.

The ayes and noes being demanded by one-fifth of the members present, Those who voted in the affirmative, are,

Theodorick Bland, Edanus Burke, Isaac Coles, Benjamin Conter, William Floyd, Elbridge Gerry, Samuel Griffin, Jonathan Grout, Thomas Hartley, John Hathorn, Daniel Heister, James Jackson, Richard Bland Lee,	Samuel Livermore, James Madison, junior, George Matthews, Andrew Moore, Peter Muhlenberg, Josiah Parker, Thomas Scott, Joshua Seney, Michael Jenifer Stone, Thomas Sumpter, Thomas Tudor Tucker, and Alexander White.
--	--

Those who voted in the negative, are,

Fisher Ames, Abraham Baldwin, Egbert Benson, George Clymer, Thomas Fitzsimons,	Abiel Foster, George Gale, Nicholas Gilman, Benjamin Goodhue, John Lawrance,
--	--

A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774 - 1875  
Journal of the House of Representatives of the United States, Volume 1

Page 123 of 831

[Turn to image](#)

123

[PREV IMAGE](#) | [NEXT IMAGE](#)[Back to Text](#) | [New Search](#) | [A Century of Lawmaking](#) | [Higher Quality Image \(TIFF - 58K\)](#)

1789.] OF REPRESENTATIVES. 123

George Leonard,  
George Partridge,  
Roger Sherman,  
Peter Silvester,Thomas Sinnickson,  
George Thatcher,  
John Vining, and  
Henry Wyntkoop.

The other amendments were severally again read, and, on the question put thereupon, agreed to by the House.

*Resolved*, That the said bill, with the amendments, do pass, and that the Clerk of this House do acquaint the Senate therewith.

The order of the day for the House to resolve itself into a Committee of the Whole House on the bill for establishing a Land Office in and for the Western Territory, was read, and postponed until to-morrow.

And then the House adjourned until to-morrow morning ten o'clock.

## FRIDAY, SEPTEMBER 25.

The House proceeded to consider the amendment agreed to by the Committee of the Whole House, yesterday, to the bill making appropriations for the service of the present year; which being read, was amended and agreed to.

*Ordered*, That the said bill, with the amendment, be engrossed, and read the third time to-day.

The House proceeded to consider the report of a committee, to whom was referred the memorial of John White, on behalf of himself, John Wright, and Joshua Dawson: Whereupon,

*Resolved*, That the said John White, late a commissioner to settle the accounts between the United States and the States of Pennsylvania, Maryland, and Delaware, and his clerks, John Wright and Joshua Dawson, be considered as in office until the thirtieth day of September, one thousand seven hundred and eighty-eight, and be paid accordingly.

*Ordered*, That the Clerk of this House do carry the said resolution to the Senate, and desire their concurrence.

An engrossed bill making appropriations for the service of the present year, was read the third time.

*Resolved*, That the said bill do pass, and that the title be, "An act making appropriations for the service of the present year."

*Ordered*, That the Clerk of this House do carry the said bill to the Senate, and desire their concurrence.

On motion,

*Resolved*, That a Joint Committee of both Houses be directed to wait upon the President of the United States, to request that he would recommend to the People of the United States, a day of public thanksgiving and prayer, to be observed, by acknowledging, with grateful hearts, the many signal favors of Almighty God, especially by affording them an opportunity peaceably to establish a Constitution of Government for their safety and happiness.

*Ordered*, That Mr. Boudinot, Mr. Sherman, and Mr. Silvester, be of the said committee on the part of this House.

Mr. Heister, from the committee to whom was recommitted the bill making provision for the Invalid Pensioners of the United States, reported an amendment thereto; which he delivered in at the Clerk's table, where the same was again read, and agreed to by the House.

*Ordered*, That the said bill, with the amendment, be engrossed, and read the third time to-day.

Mr. Fitzsimons, from the committee to whom such of the petitions presented during the present session, as state any claims against the United States, or pray for the liquidation of any account, were referred, made a report: Whereupon,

*Resolved*, That the several petitions of Dudley Tyler, John Hurst, Henry Malcolm, Peter Bennet, Charles Markley, Alexander Power, and John M'Garragh, be referred to the Secretary of the Department of War, and that he report thereupon to the next session of Congress; that the memorial of Baron de Steuben, and the several petitions of Duncan Campbell, Thomasin Gordon, Monsieur Lejeune, Englebert Kemmena, Tri-trum Coffin, and Martha Walker, be referred to the Secretary of the Treasury, to report thereupon, in like manner, to the next session of Congress; and that the case of Brigadier General Reed, ought to be provided for by a general law concerning invalids.

[Back to Text](#) | [New Search](#) | [A Century of Lawmaking](#) | [Higher Quality Image \(TIFF - 58K\)](#)

Page 123 of 831

[Turn to image](#)

123

[PREV IMAGE](#) | [NEXT IMAGE](#)

Excerpt from *Annals of Congress – House, for the First Session of the First Congress*, in the version as commercially published (but Federal Government authorized) by Gales & Seaton, Washington (1834), “Compiled from Authentic Materials, By Joseph Gales, Senior.

- Thursday September 24, 1789



The Library of Congress

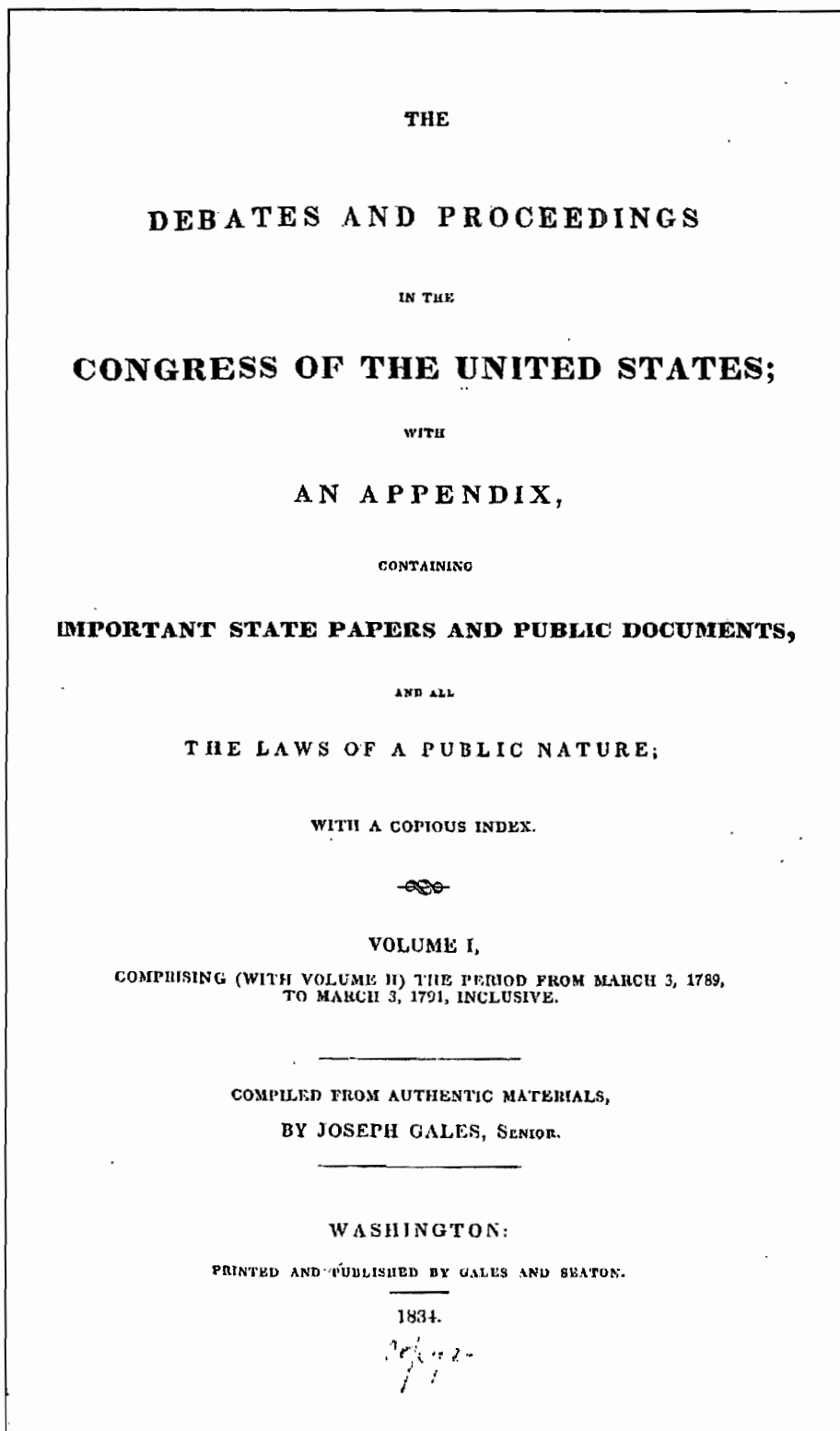


A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774 - 1875  
Annals of Congress, 1st Congress

Turn to image

NEXT IMAGE

A Century of Lawmaking | Higher Quality Image (TIFF - 12K)





[Turn to image](#)

[PREV IMAGE](#) | [NEXT IMAGE](#)

[A Century of Lawmaking](#) | [Higher Quality Image \(TIFF - 47K\)](#)

**HISTORY**  
OF  
THE PROCEEDINGS AND DEBATES  
OF  
THE HOUSE OF REPRESENTATIVES  
OF THE  
UNITED STATES.

AT THE FIRST SESSION OF THE FIRST CONGRESS, BEGUN AT THE CITY OF  
NEW YORK, MARCH 4, 1789.

WEDNESDAY, March 4, 1789.

This being the day fixed for the meeting of the new Congress, the following members of the House of Representatives appeared and took their seats, viz:

*From Massachusetts,* GEORGE THATCHER, FISHER AMES, GEORGE LEONARD, and ELLIOTT GERRY.

*From Connecticut,* BENJAMIN HUNTINGTON, JONATHAN TRUMBULL, and JEREMIAH WAUSWORTH.

*From Pennsylvania,* FREDERICK AUGUSTUS MÜHLENBERG, THOMAS HARTLEY, PETER MÜHLENBERG, and DANIEL HEISTER.

*From Virginia,* ALEXANDER WHITE.

*From South Carolina,* THOMAS TUDOR TUCKER.

A quorum of the members not being present, the House adjourned until to-morrow at eleven o'clock.

THURSDAY, March 5.

Several other members attended, viz: from New Hampshire, NICHOLAS GILMAN; from Massachusetts, BENJAMIN GOODHUE; from Connecticut, ROGER SHERMAN and JONATHAN STURGES; and from Pennsylvania, HENRY WYCKOFF; and no other members arriving, a quorum not being present, the House adjourned, from day to day, until the 14th instant.

SATURDAY, March 11.

The following members took their seats, to wit: JAMES MADISON, junior, JOHN PAOK, and RICHARD BLAND LEE, from Virginia.

A quorum not being yet present, the House adjourned, from day to day, until the 17th instant.

TUESDAY, March 17.

SAMUEL GRIFFIN, from Virginia, took his seat.

WEDNESDAY, March 18.

ANDREW MOORE, from Virginia, took his seat. No other member appearing, the House adjourned, from day to day, until the 23d instant.

MONDAY, March 23.

The following members appeared, to wit:— From New Jersey, ELIAS BOUDINOT; and from Maryland, WILLIAM SMITH. No additional member appeared on the 24th.

WEDNESDAY, March 25.

JONATHAN PARKER, from Virginia, appeared and took his seat. No additional member arrived until the 30th instant.

MONDAY, March 30.

GEORGE GALE, from Maryland, and THEODORE BLAND, from Virginia, appeared and took their seats. No additional member on the 31st instant.

WEDNESDAY, April 1.

Two other members appeared, to wit: JAMES SCHUREMAN, from New Jersey, and THOMAS SCOTT, from Pennsylvania, who forming a quorum of the whole body, it was, on motion:

*Resolved,* That this House will proceed to the choice of a Speaker by ballot.

The House accordingly proceeded to ballot for a Speaker, when it was found that a majority of the votes were in favor of FREDERICK AUGUSTUS MÜHLENBERG, one of the Representatives from Pennsylvania. Whereupon, Mr. MÜHLENBERG was conducted to the chair, from whence he made his acknowledgments to the House for so distinguished an honor.

The House then proceeded in the same manner to the appointment of a Clerk, when it was found that Mr. JOHN BECKLEY was elected.

[A Century of Lawmaking](#) | [Higher Quality Image \(TIFF - 47K\)](#)

[Turn to image](#)

[PREV IMAGE](#) | [NEXT IMAGE](#)



947	OF DEBATES IN CONGRESS.	948
SEPTEMBER 24, 1789.]	<i>Amendments to the Constitution.</i>	[H. OF R.
<p>It was ordered, that leave be given to bring in a bill, to explain and amend the act for registering and clearing vessels, and regulating the coasting trade; Messrs. BLAND, BENSON, and GOODHUE were appointed to prepare and bring in the same. Adjourned.</p> <p style="text-align: center;">WEDNESDAY, Sept. 23.</p> <p>The engrossed bill for recognising and adapting to the constitution of the United States the establishment of the troops raised under the resolves of the United States in Congress assembled, was read the third time and passed the House.</p> <p>The House resolved itself into a committee of the whole on the bill making appropriations for the service of the present year; Mr. BOUNDNOT in the Chair; and after some time spent in considering the same, the committee rose and reported that they had, according to order, had the said bill under consideration, and made an amendment thereto; which being twice read, was agreed to by the House; and the bill was ordered to be engrossed, with the amendment, and read the third time to-morrow.</p> <p>Mr. BLAND, from the committee appointed for the purpose, presented a bill to explain and amend the act for registering and clearing vessels and regulating the coasting trade, which was read the first and second time, and ordered to be engrossed and read the third time to-morrow.</p> <p>The House resolved itself into a Committee of the whole on the bill to alter the time for the annual meeting of Congress, Mr. BOUNDNOT in the Chair; and after some time being spent in considering the same, the Committee reported, that they had had the said bill under consideration, gone through the same, and made several amendments thereto; which were twice read, and agreed to by the House.</p> <p>The said bill, with the amendments, were ordered to be engrossed and read the third time to-morrow.</p> <p>The House then resolved itself into a Committee of the whole House on the bill to regulate processes in the courts of the United States, Mr. BOUNDNOT in the Chair; and after some time spent therein, the committee rose and reported progress. Adjourned.</p> <p style="text-align: center;">THURSDAY, Sept. 24.</p> <p>The two following engrossed bills were read the third time and passed, to wit, the bill to explain and amend an act for registering and clearing vessels, and regulating the coasting trade, and the bill to alter the time for the annual meeting of Congress.</p> <p>The engrossed bill making appropriations for the service of the present year being read the third time, was ordered to be recommitted to a Committee of the whole House this day.</p> <p>A committee was appointed to ascertain the amount of the compensations due to the members of this House respectively, and of the sev-</p>	<p>eral officers thereof, together with the contingent expenses of the session; consisting of Messrs. FITZSIMONS, SMITH (of Maryland) and BALDWIN.</p> <p>Mr. GERRY, from the committee to whom it was referred to prepare an estimate of the gross amount and net produce of the Inpost and Tonnage duties for one year, made a report, which was read and ordered to lie on the table.</p> <p style="text-align: center;">AMENDMENTS TO THE CONSTITUTION.</p> <p>The House proceeded to consider the report of a Committee of Conference, on the subject matter of the amendments depending between the two Houses to the several articles of amendment to the Constitution of the United States, as proposed by this House: whereupon, it was resolved, that they recede from their disagreement to all the amendments; provided that the two articles, which, by the amendments of the Senate, are now proposed to be inserted as the third and eighth articles, shall be amended to read as follows:</p> <p>ART. 3. Congress shall make no law respecting an establishment of religion, or prohibiting a free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.</p> <p>ART. 8. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation—to be confronted with the witnesses against him—to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.</p> <p>And provided also, that the first article be amended, by striking out the word "less" in the last place of the said article, and inserting, <i>in lieu thereof, "more."</i></p> <p>On the question that the House agree to the alteration of the eighth article, in the manner aforesaid, the yeas and nays were called, and are as follow:</p> <p>YEAS—Messrs. Ames, Baldwin, Benson, Boudnot, Brown, Cadwalader, Carroll, Clymer, Contee, Fitzsimons, Foster, Gale, Gilman, Goodhue, Griffin, Hartley, Lee, Leonard, Madison, Moore, Muhlenberg, Parker, Partridge, Schureman, Scott, Sency, Sherman, Sylvester, Simnickson, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Thatcher, Trumbull, Vining, White, and Wykoop.—37.</p> <p>NAYS—Messrs. Bland, Burke, Coles, Floyd, Gerry, Grout, Hathorn, Jackson, Livermore, Matthews, Page, Van Rensselaer, Sumter, and Tucker.—14.</p> <p>On motion, it was resolved, that the President of the United States be requested to transmit to the Executives of the several States which have ratified the Constitution, copies of the amendments proposed by Congress, to be added thereto, and like copies to the Executives of the States of Rhode Island and North Carolina.</p>	