

A PROJECT OF THE NATIONAL ARCHIVES –  
CENTER FOR LEGISLATIVE ARCHIVES

A vertical strip of marbled paper with a complex, swirling pattern of blue, gold, and white, running along the left edge of the cover.

# Congress Creates the Bill of Rights

**Go Inside the First Congress  
Part II B**

Amendments in Process

# Congress Creates the Bill of Rights

*Congress Creates the Bill of Rights* consists of three elements: a mobile application for tablets, an eBook, and online resources for teachers and students on the Center for Legislative Archives website (<http://www.archives.gov/legislative/resources/bill-of-rights.html>). Each provides a distinct way of exploring how the First Congress proposed amendments to the Constitution in 1789.

This PDF contains all the content of the app divided into four sections:

- Get the Background (Part I);
- Go Inside the First Congress (Part II, A);
- Go Inside the First Congress (Part II A);
- Amendments in Process (Part II B); and

Each part is sized so that it can be easily downloaded or printed on a wide variety of devices.

Center for Legislative Archives  
National Archives

National Archives Trust Fund Publication

Foundation for the National Archives

*Funding provided by*  
The Chisholm Foundation  
The Dyson Foundation  
Humanities Texas

Designed and produced by Research & Design, Ltd.,  
Arlington, Virginia





# Go Inside the First Congress

## Contents

Title Page.....	1
Project Description .....	2
Contents .....	3
<b>Go Inside the First Congress (Part II B) .....</b>	<b>4</b>
Amendments in Process .....	5
House Article the First .....	6
House Article the Second .....	16
House Article the Third.....	26
House Article the Fourth .....	36
House Article the Fifth .....	46
House Article the Sixth .....	56
House Article the Seventh .....	66
House Article the Eighth.....	76
House Article the Ninth .....	86
House Article the Tenth .....	96
House Article the Eleventh.....	106
House Article the Twelfth .....	116
House Article the Thirteenth .....	126
House Article the Fourteenth.....	136
House Article the Fifteenth.....	146
House Article the Sixteenth .....	156
House Article the Seventeenth.....	166



# Go Inside the First Congress

## Part II B



## Go Inside the First Congress

### Amendments in Process

The amendments included in the Bill of Rights went through the challenging process for Congress to propose amendments as specified in Section V of the Constitution. The idea of amendments originated in five state ratification conventions that approved the Constitution but recommended dozens of amendments. James Madison studied these and formulated a select set of amendments that he introduced to the whole House. A House select committee, the Committee of Eleven, transformed Madison's proposals into nineteen specific changes to the Constitution. These were then debated, refined, and approved by two thirds of the House as seventeen articles of amendment. The House articles were submitted to the Senate, where they were again deliberated, revised, reduced to twelve proposed amendments, and passed by a two-thirds majority. The House and the Senate then reconciled differences in a conference committee and by additional agreements between the bodies. Those changes were approved by two thirds of the House and the Senate. The amendments that finally passed Congress were sent to the state legislatures to be ratified. If and when three-quarters of the states voted to ratify an amendment, it was added to the Constitution. Articles Three through Twelve passed this last test and became the Bill of Rights.

*Follow this process for each of the proposed amendments.*

# Go Inside the First Congress

## Amendments in Process

### House Article the First

#### Number of Representatives

#### 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 less than one Representative for every fifty thousand persons.

*amendment*

# Go Inside the First Congress

## Amendments in Process

### House Article the First

#### Number of Representatives

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

Representative government depends upon the relationship of an elected member to his constituents, which in turn depends on the number of constituents in a congressional district. There is no ideal formula for this political calculation, so the struggle to find a constitutional solution to this dilemma divided members into two camps. Those who were skeptical or fearful of the new federal government argued for small districts with constituents in close contact with their representative, resulting in a House with a large number of members. Those who sought to build an efficient federal government, however, worried that a legislative body with too many members would prove unruly and ineffective and undo the design of the constitutional convention.

#### 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 less than one Representative for every fifty thousand persons.

*amendment*

# Go Inside the First Congress

## Amendments in Process

### House Article the First

#### Number of Representatives

▶ Ideas Proposed by State Ratification Conventions

That there shall be one representative to every thirty thousand persons according to the Census mentioned in the Constitution until the whole number of the Representatives be 200.

*Massachusetts Convention, February 6, 1788*

As Proposed by James Madison

As Proposed by the House Committee

That there be one representative for every 30,000... until the number of representatives reach 200; after which the number shall be increased as Congress shall direct.

*Virginia Convention, June 27, 1788*

As Passed by the House of Representatives

As Approved or Amended by the Senate

The Constitution stipulated that the number of representatives shall not exceed one for every 30,000 constituents and be distributed among the existing states. Some state conventions wanted to ensure that the House expanded with population growth, while not creating an unwieldy number of representatives.

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

#### 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 less than one Representative for every fifty thousand persons.

*amendment*



# Go Inside the First Congress

## Amendments in Process

### House Article the First

#### Number of Representatives

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

*James Madison proposed that the following language be incorporated into Article I, Section 2, Clause 3 of the Constitution:*

After the first actual enumeration, there shall be one Representative for every thirty thousand, until the number amounts to \_\_\_, after which the proportion shall be so regulated by Congress, that the number shall never be less than \_\_\_, nor more than \_\_\_, but each State shall, after the first enumeration, have at least two Representatives.

*June 8, 1789*

Madison's proposal said that after the first census in 1790, there would be one representative for every 30,000 constituents until the number of House members reached a threshold that Congress would determine. At that time, Congress would establish a new formula to determine the size of the House. Madison also set a minimum limit of two representatives per state.

#### 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 less than one Representative for every fifty thousand persons.

*amendment*

# Go Inside the First Congress

## Amendments in Process

### House Article the First

#### Number of Representatives

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

*In Article I, Section 2, Clause 3—Strike out all between the words, “direct” and “and until such” and instead thereof insert:*

After the first enumeration there shall be one representative for every thirty thousand until the number shall amount to one hundred; after which the proportion shall be so regulated by Congress that the number of Representatives shall never be less than one hundred, nor more than one hundred and seventy-five, but each State shall always have at least one Representative.

*July 28, 1789*

The Committee of Eleven filled in the numbers on Madison’s proposal, but changed the minimum state representation from two to one.

### 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 less than one Representative for every fifty thousand persons.

*amendment*

# Go Inside the First Congress

## Amendments in Process

### House Article the First

#### Number of Representatives

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

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 less than one Representative for every fifty thousand persons.

*July 28, 1789*

In the House debate, Federalists, such as Fisher Ames (MA), argued that the House should be kept small to draw its members from only the most qualified individuals in each state. James Madison (VA) by contrast, called for a minimum of one hundred members and proposed a steadily increasing size for the House to preserve the closest possible relationship between constituents and representatives.

#### 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 less than one Representative for every fifty thousand persons.

*amendment*

# Go Inside the First Congress

## Amendments in Process

### House Article the First

#### Number of Representatives

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

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; to which number one Representative shall be added for every subsequent increase of forty thousand, until the Representatives shall amount to two hundred, to which number one Representative shall be added for every subsequent increase of sixty thousand persons.

*September 14, 1789*

The Senate proposal also called for an expanding House, in which district populations became progressively larger. It differed from the House version by virtue of suggesting the future districts be larger and the future growth in House membership slower.

#### 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 less than one Representative for every fifty thousand persons.

*amendment*

# Go Inside the First Congress

## Amendments in Process

### House Article the First

#### Number of Representatives

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

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.

*September 24, 1789*

On September 21, the Senate withdrew the changes that they had approved earlier in the month, leaving the House-approved version as the current text of the proposed article. Three days later, the Conference Committee recommended that both chambers agree to change the word "less" in the final sentence to "more." Both bodies agreed to this change, yielding the final version of the proposed amendment.

#### 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 less than one Representative for every fifty thousand persons.

*amendment*

# Go Inside the First Congress

## Amendments in Process

### House Article the First

#### Number of Representatives

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

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.

*October 2, 1789*

The amendment was sent to the states for ratification in this form.

#### 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 less than one Representative for every fifty thousand persons.

*amendment*

# Go Inside the First Congress

## Amendments in Process

### House Article the First

#### Number of Representatives

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

Approved by only ten state legislatures, this amendment fell one short of the number required for it to become part of the Constitution.

#### ARTICLE THE FIRST.

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

*amendment*

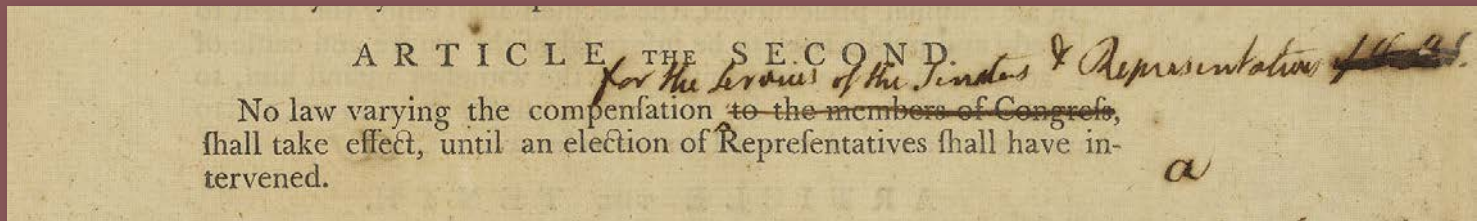


# Go Inside the First Congress

## Amendments in Process

### House Article the Second

Members' Pay





# Go Inside the First Congress

## Amendments in Process

### House Article the Second

#### Members' Pay

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

Under the Articles of Confederation, each state determined what it would pay its members in the Confederation Congress. In Article I, Section 6 of the new federal Constitution, Congress was given the power to set pay rates for members, and the funds would come from the federal treasury. That simple transfer of power to Congress created its own set of issues and questions about the consequences and dangers of giving members the ability to set or raise their own salaries. Some members of Congress and the public feared that a greedy Congress might be tempted to enrich its members at public expense. Others feared an entirely different dynamic, where rich members set salaries so low that men of modest means could never afford to serve in Congress. The discussion of an additional constitutional amendment to limit the power over pay illustrated the controversial dimensions to congressional salaries.

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.

#### ARTICLE THE SECOND

*for the Service of the Senate & Representatives of the U.S.*  
No law varying the compensation to the members of Congress, shall take effect, until an election of Representatives shall have intervened.

# Go Inside the First Congress

## Amendments in Process

### House Article the Second

#### Members' Pay

Ideas Proposed by State Ratification Conventions

That the laws ascertaining the compensation to Senators and Representatives for their services be postponed in their operation, until after the election of Representatives immediately succeeding the passing thereof.

*Virginia Convention, June 27, 1788*

As Proposed by James Madison

As Proposed by the House Committee

That the compensation for the Senators and Representatives be ascertained by standing Laws; and that no alteration of the existing rate of Compensation shall operate for the Benefit of the Representatives, until after a subsequent election shall have been had.

*New York Convention, July 26, 1788*

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

These proposals from the states reflected a widely held sentiment that Congress should not be able to raise pay for current members.

As Sent to the States for Ratification

As Ratified by the States

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.

#### ARTICLE THE SECOND.

*for the service of the Senators & Representatives*  
No law varying the compensation to the members of Congress, shall take effect, until an election of Representatives shall have intervened.

*a*

# Go Inside the First Congress

## Amendments in Process

### House Article the Second

#### Members' Pay

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

*James Madison proposed to add the following text about members' pay to Article I, Section 6, Clause 1 of the Constitution:*  
But no law varying the compensation last ascertained shall operate before the next ensuing election of Representatives.

*June 8, 1789*

Madison was proposing to add text to the Constitution incorporating the ban on self-awarded congressional pay raises advanced by the Virginia and New York conventions. Ironically, as Congress debated this amendment, it also considered legislation to establish its own rate of pay. The members determined that they would be paid six dollars per day for every day Congress was in session and six dollars for every twenty miles of travel to and from New York City.

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.

#### ARTICLE THE SECOND.

*for the Service of the Senate & Representatives*  
No law varying the compensation to the members of Congress, shall take effect, until an election of Representatives shall have intervened.

# Go Inside the First Congress

## Amendments in Process

### House Article the Second

#### Members' Pay

Ideas Proposed by State Ratification Conventions

*Article I, Section 6—Between the words 'United States' and 'shall in all cases,' strike out 'they' and insert:*

As Proposed by James Madison

But no law varying the compensation shall take effect until an election of Representatives shall have intervened.”

*July 28, 1789*

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

The Committee of Eleven simplified the language of Madison's proposal.

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

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.

#### ARTICLE THE SECOND.

No law varying the compensation ~~to the members of Congress,~~ *for the service of the Senators & Representatives* shall take effect, until an election of Representatives shall have intervened.

*a*

# Go Inside the First Congress

## Amendments in Process

### House Article the Second

#### Members' Pay

Ideas Proposed by State  
Ratification Conventions

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

As Proposed by  
James Madison

*August 24, 1789*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

The House adopted the amendment essentially as it was proposed by the Select Committee.

As Sent to the States  
for Ratification

As Ratified  
by the States

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.

#### ARTICLE THE SECOND.

*for the Service of the Senate & Representatives of the U.S.*  
No law varying the compensation to the members of Congress, shall take effect, until an election of Representatives shall have intervened.

*a*

# Go Inside the First Congress

## Amendments in Process

### House Article the Second

#### Members' Pay

Ideas Proposed by State  
Ratification Conventions

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

As Proposed by  
James Madison

*September 14, 1789*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

The Senate clarification made explicit that the ban on self-awarded pay raises applied to both bodies.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

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.

#### ARTICLE THE SECOND.

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

*a*

# Go Inside the First Congress

## Amendments in Process

### House Article the Second

#### Members' Pay

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was not considered by the Conference Committee since the House agreed to the Senate's changes on September 21, 1789.

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.

#### ARTICLE THE SECOND.

*for the Service of the Senate & Representatives of the U.S.*  
No law varying the compensation to the members of Congress, shall take effect, until an election of Representatives shall have intervened.

*a*

# Go Inside the First Congress

## Amendments in Process

### House Article the Second

#### Members' Pay

Ideas Proposed by State  
Ratification Conventions

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

As Proposed by  
James Madison

*October 2, 1789*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

The amendment was sent to the states for ratification in this form.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

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.

#### ARTICLE THE SECOND.

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

*for the Service of the Senators & Representatives*  
*a*



# Go Inside the First Congress

## Amendments in Process

### House Article the Second

#### Members' Pay

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

Approved by only ten state legislatures, this amendment fell one short of the number required for it to become part of the Constitution.

This amendment was revived and ratified as the Twenty-Seventh Amendment in 1992.

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.

#### ARTICLE THE SECOND.

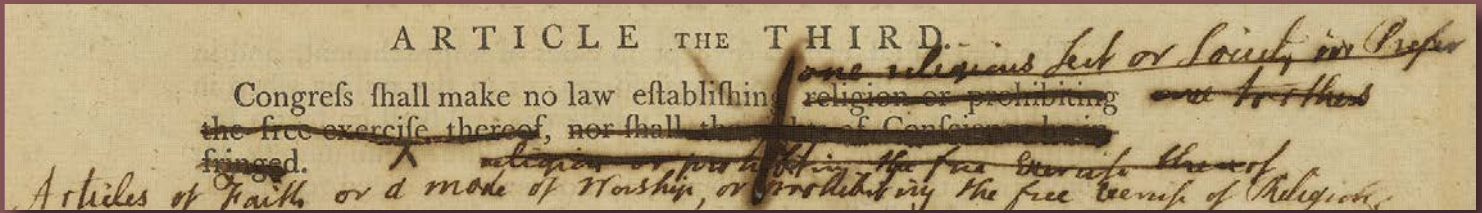
No law varying the compensation *for the services of the Senators & Representatives* shall take effect, until an election of Representatives shall have intervened. *a*

# Go Inside the First Congress

## Amendments in Process

### House Article the Third

Religious Liberties



# Go Inside the First Congress

## Amendments in Process

### House Article the Third

#### Religious Liberties

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

The amendment to define religious liberties and the right of conscience (or freedom of belief) took many forms as the House and the Senate struggled to find the proper words and phrases to frame these fundamental rights at the federal level. Some expressions tried to declare universal rights of man, while others focused on limitations on congressional power to establish a national religion, curtail individual rights, or define articles of faith or modes of worship. This amendment was one of the few to change at every step of the process as it moved from the House to the Senate and then to the Conference Committee.

for every my thousand persons.

#### ARTICLE THE SECOND.

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

#### ARTICLE THE THIRD.

Congress shall make no law establishing ~~one religious sect or Society, or~~ ~~religion or prohibiting~~ ~~the free exercise thereof,~~ ~~nor shall they~~ ~~establish~~ ~~any~~ ~~Articles of Faith~~ ~~or a mode of Worship,~~ ~~or~~ ~~prohibit~~ ~~the~~ ~~free~~ ~~exercise~~ ~~thereof~~ ~~of~~ ~~Religion,~~

Articles of Faith or a mode of Worship, or prohibit the free exercise thereof of Religion.



# Go Inside the First Congress

## Amendments in Process

### House Article the Third

#### Religious Liberties

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

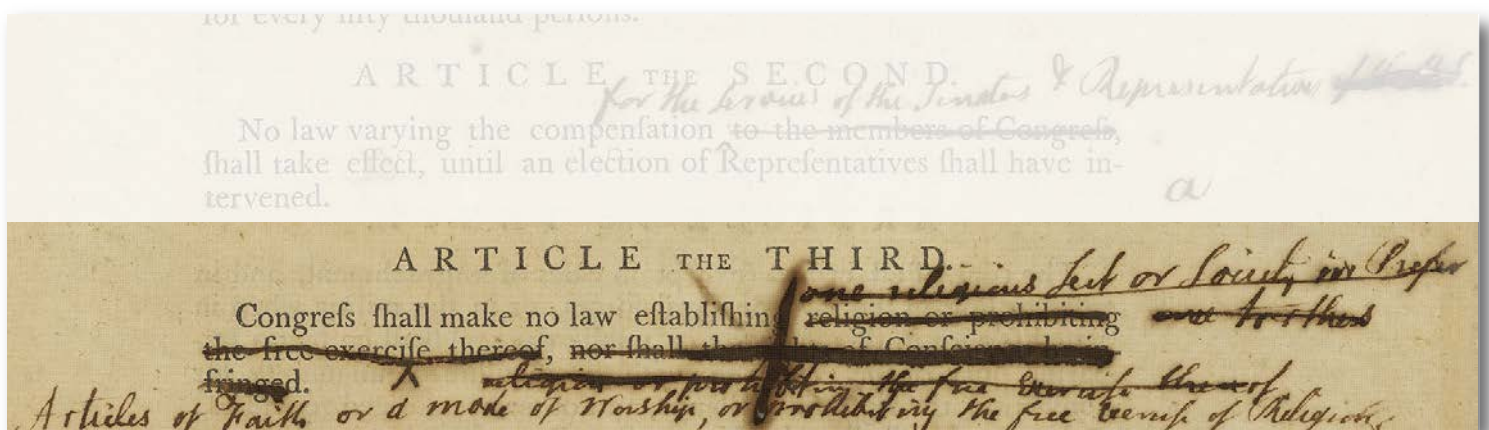
As Ratified  
by the States

*James Madison proposed that the following language be inserted into Article I, Section 9, of the Constitution between Clauses 3 and 4:*

The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed.

*June 8, 1789*

Following the lead of the state conventions, Madison proposed federal protection for religious expression and the rights of conscience, a policy that echoed his earlier support for Virginia's Statute of Religious Freedom of 1786.



# Go Inside the First Congress

## Amendments in Process

### House Article the Third

#### Religious Liberties

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

▶ As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

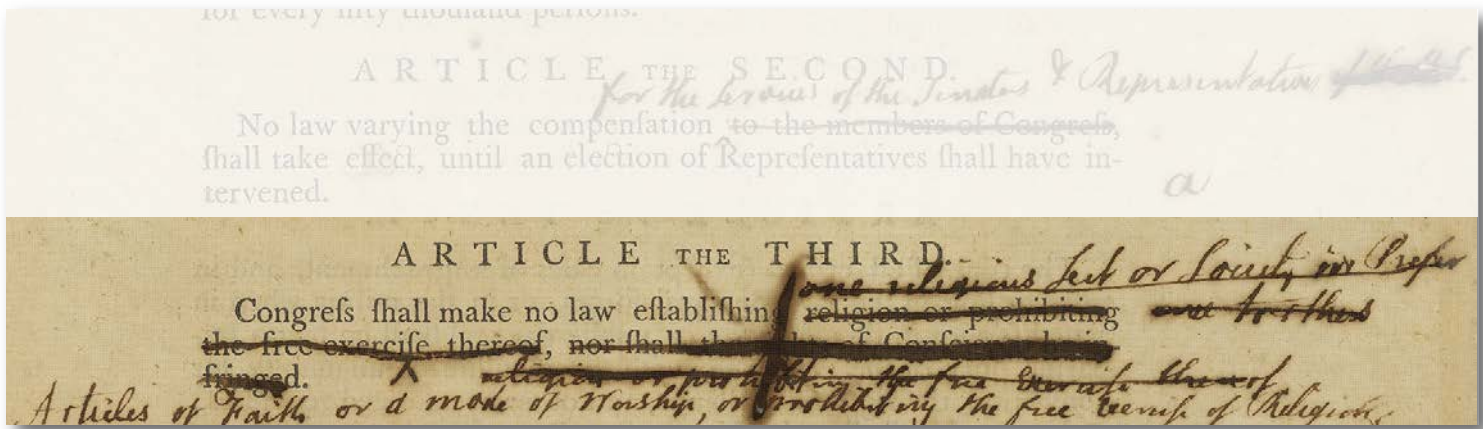
As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

*Article I, Section 9—Between Clauses 2 and 3 insert:  
No religion shall be established by law, nor shall the equal rights of conscience be infringed.  
July 28, 1789*

The Committee of Eleven transformed Madison's expansive language about the protection of a universal right to a specific prohibition against establishing a national religion and against denying the rights of conscience.



# Go Inside the First Congress

## Amendments in Process

### House Article the Third

#### Religious Liberties

Ideas Proposed by State  
Ratification Conventions

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

As Proposed by  
James Madison

*August 24, 1789*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

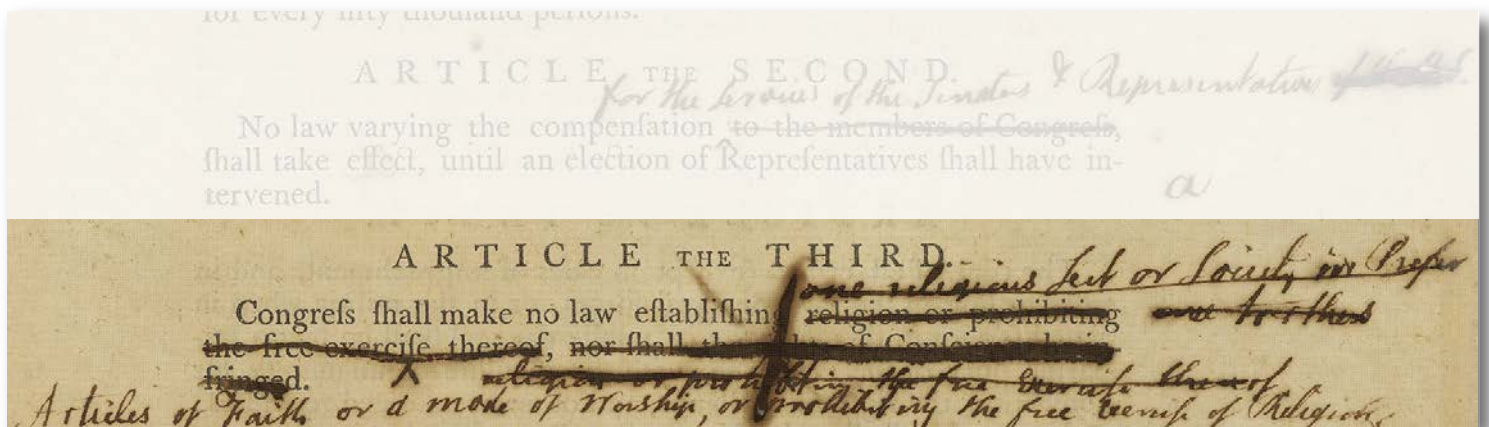
As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

Federalist Samuel Livermore (NH) made a significant change to this amendment when, during the House debate, he moved to narrow the opening phrase to read, "Congress shall make no law."

As Sent to the States  
for Ratification

As Ratified  
by the States





# Go Inside the First Congress

## Amendments in Process

### House Article the Third

#### Religious Liberties

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

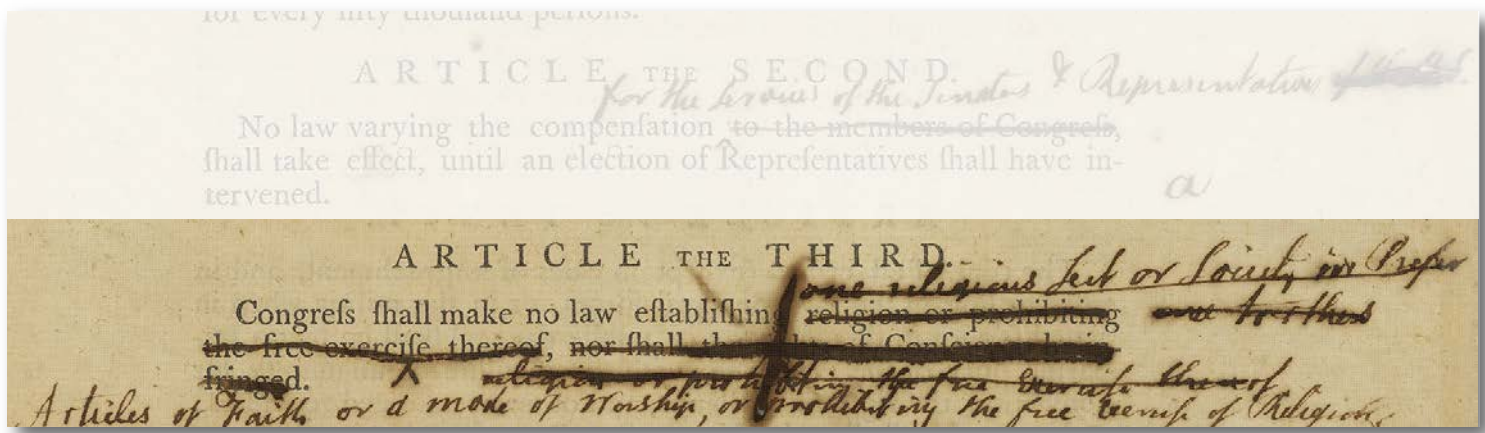
As Ratified by the States

*The Senate amended and combined Articles Three and Four to read:*

Congress shall make no law establishing articles of faith, or a mode of worship, or prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assembly, and to petition to the government for a redress of grievances.

*September 14, 1789*

The Senate combined Articles Three and Four in a new Article Three. This brought together language on religious liberty, freedom of the press, freedom of speech, freedom of assembly, and the right to petition in one article. In addition, the Senate refocused the language on religion by barring the establishment of specific articles of faith or modes of worship instead of barring the establishment of a national religion.







# Go Inside the First Congress

## Amendments in Process

### House Article the Third

#### Religious Liberties

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

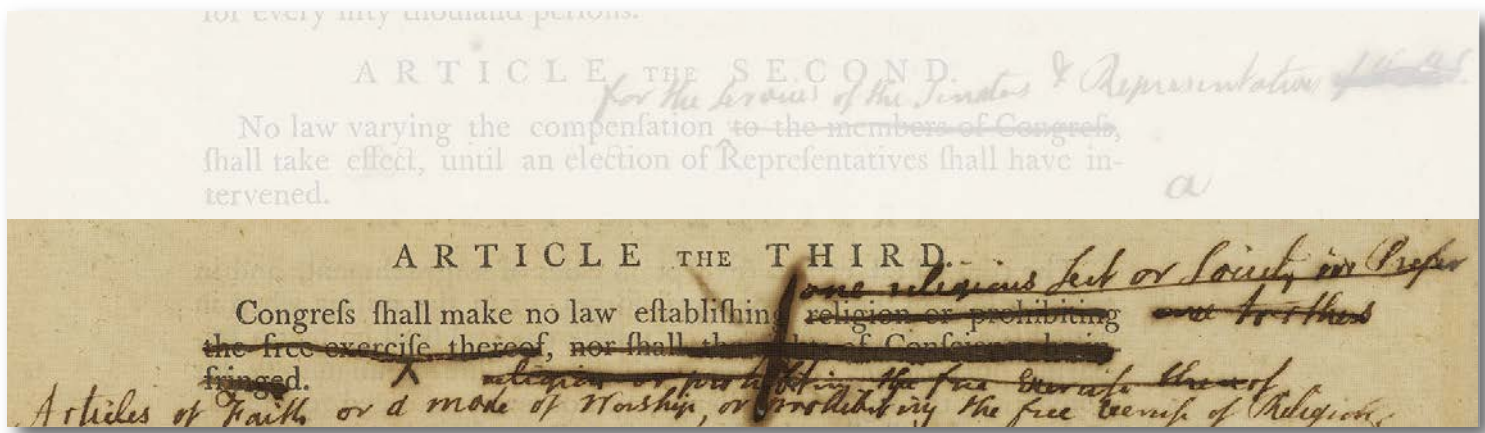
As Sent to the States for Ratification

As Ratified by the States

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 assembly, and to petition the Government for a redress of grievances.

*September 24, 1789*

The only changes made by the Conference Committee were to the religion clause. They did not change the language related to freedom of speech, press, assembly, and petition. The committee broadened the language on religion by returning to terms similar to those proposed by the House Select Committee.







# Go Inside the First Congress

## Amendments in Process

### House Article the Third

#### Religious Liberties

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

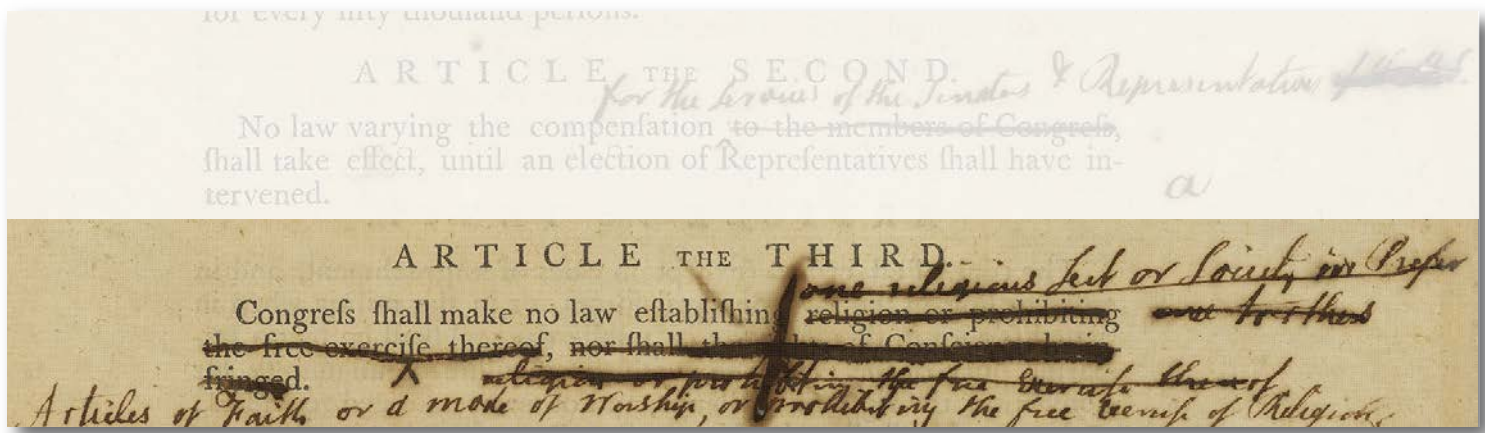
As Sent to the States for Ratification

As Ratified by the States

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 assembly, and to petition the Government for a redress of grievances.

*December 15, 1791*

This became the First Amendment in the Bill of Rights when the states failed to ratify the two that had preceded it.



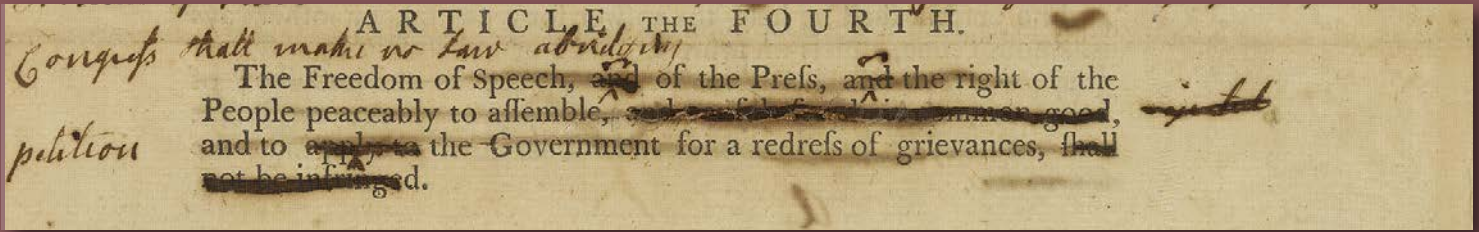


# Go Inside the First Congress

## Amendments in Process

### House Article the Fourth

Speech, Press, Assembly, and Petition



# Go Inside the First Congress

## Amendments in Process

### House Article the Fourth

#### Speech, Press, Assembly, and Petition

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

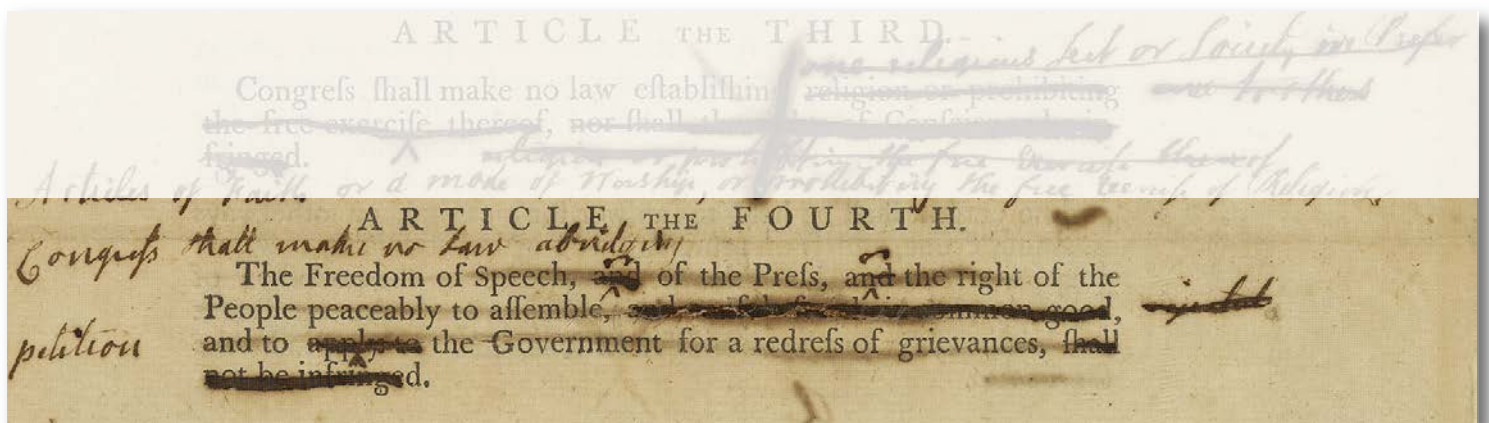
As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

Free speech, a free press, the rights of assembly, and the right to petition the government were acknowledged as fundamental rights that belonged to free men. British traditions, colonial legacies, and the searing experiences of the Revolution made these indispensably American ideals. Members might debate how much of a threat the new federal government posed to these freedoms, and they might quibble over the language to describe them, but none opposed the principles themselves.





# Go Inside the First Congress

## Amendments in Process

### House Article the Fourth

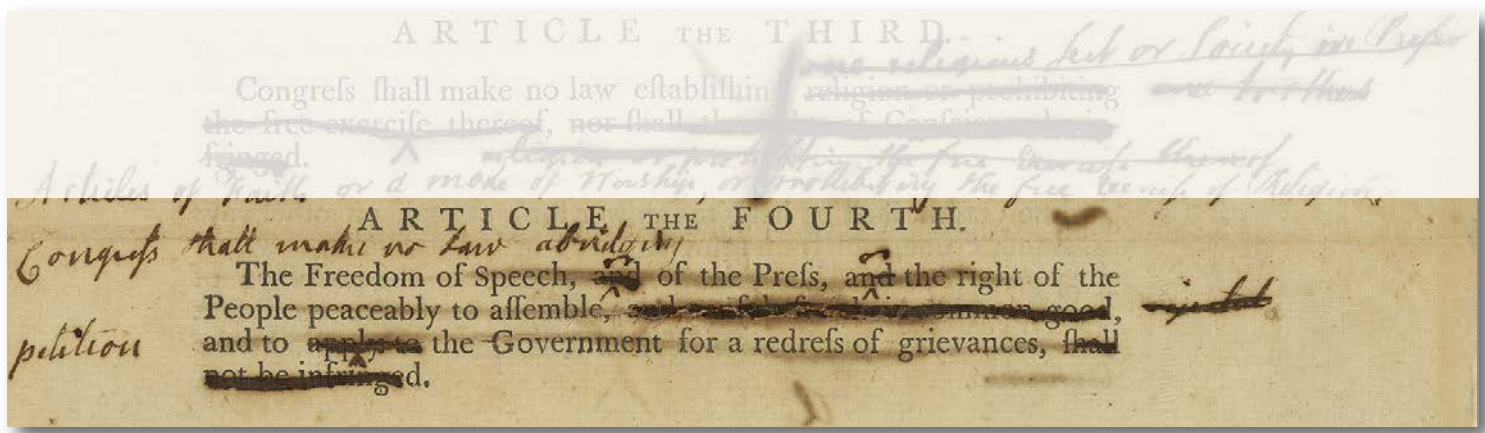
#### Speech, Press, Assembly, and Petition

<p>▶ Ideas Proposed by State Ratification Conventions</p>
<p>As Proposed by James Madison</p>
<p>As Proposed by the House Committee</p>
<p>As Passed by the House of Representatives</p>
<p>As Approved or Amended by the Senate</p>
<p>As Reported by the Conference Committee</p>
<p>As Sent to the States for Ratification</p>
<p>As Ratified by the States</p>

That the people have a right peaceably to assemble together to consult for their common good or to instruct their Representatives; and that every person has a right to petition or apply to the legislature for redress of grievances.  
*Virginia Convention, June 27, 1788*

That the people have a right peaceably to assemble together to consult for their common good, or to instruct their Representatives; and that every Person has a right to Petition or apply to the Legislature for redress of Grievances. That Freedom of the Press ought not to be violated or restrained.  
*New York Convention, July 26, 1788*

Both state conventions linked protection of the rights of assembly and petition to the purpose of instructing representatives. Both states also cited the individual's right to petition for redress of grievance, and the community's right to assemble to consult for their common good.



# Go Inside the First Congress

## Amendments in Process

### House Article the Fourth

#### Speech, Press, Assembly, and Petition

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

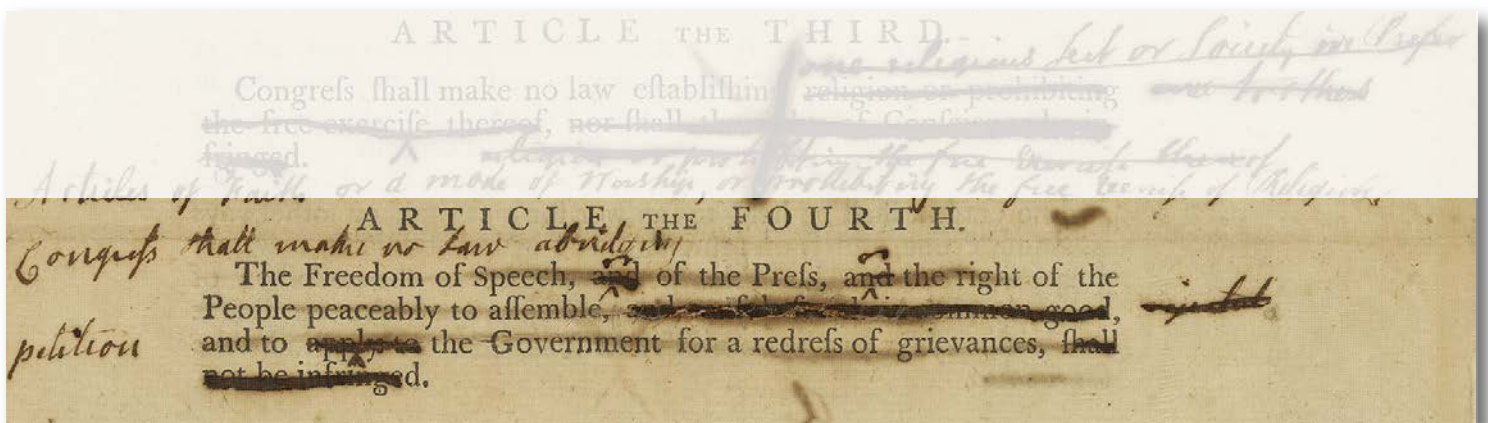
As Ratified by the States

*James Madison proposed that the following language be inserted into Article I, Section 9, of the Constitution between Clauses 3 and 4:*

The people shall not be deprived or abridged of their right to speak, or to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable. The people shall not be restrained from peaceably assembling and consulting for their common good; nor from applying to the Legislature by petitions, and remonstrances, for redress of their grievances.

*June 8, 1789*

Madison omitted the concept of instructing representatives in his proposal, and he explicitly described the various modes of speech. He also included a strong statement on the importance of freedom of the press.





# Go Inside the First Congress

## Amendments in Process

### House Article the Fourth

#### Speech, Press, Assembly, and Petition

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

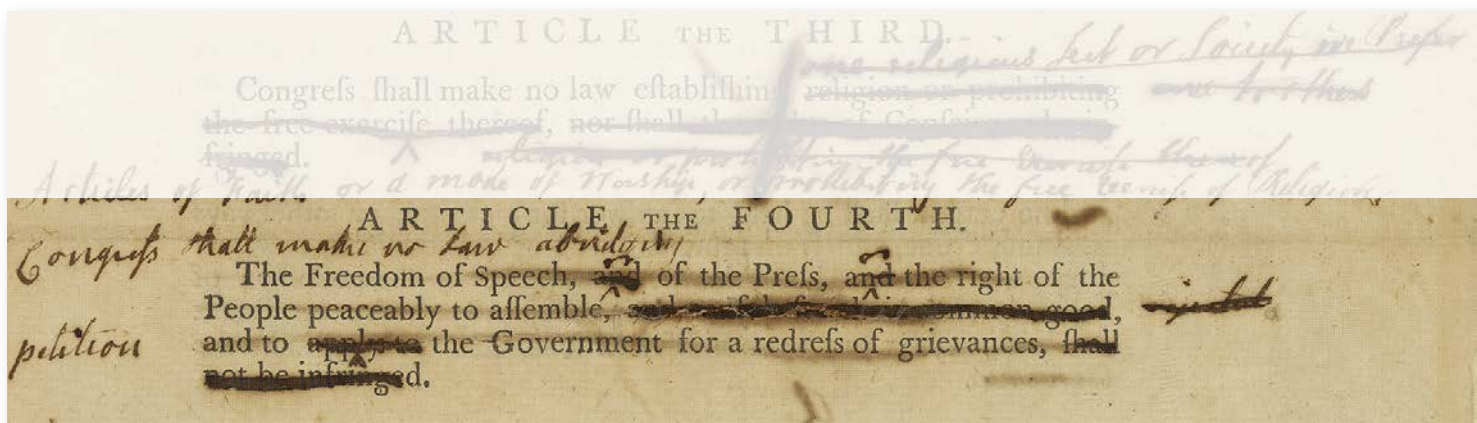
As Ratified by the States

*Article I, Section 9—Between Clause 2 and 3 insert :*

The freedom of speech, and of the press, and the right of the people peaceably to assembly and consult for their common good, and to apply to the government for redress of grievances shall not be infringed.

*July 28, 1789*

The Select Committee shortened and clarified Madison's amendment, focusing on the legal rights to be protected rather than making a universal statement of principle.





# Go Inside the First Congress

## Amendments in Process

### House Article the Fourth

#### Speech, Press, Assembly, and Petition

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

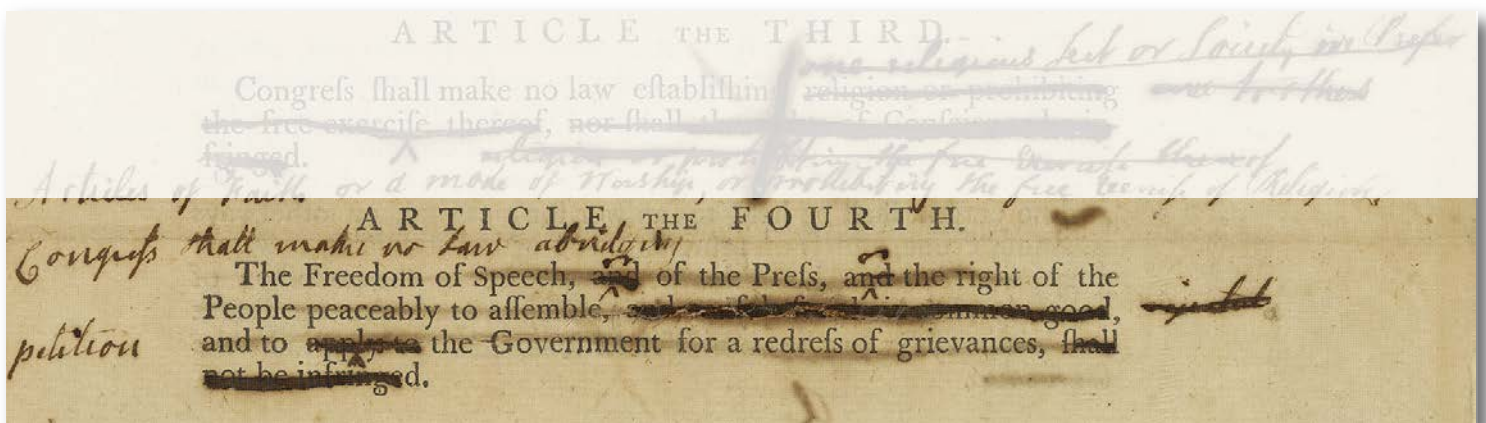
As Sent to the States for Ratification

As Ratified by the States

The freedom of Speech, and of the Press, and the right of the People peaceably to assembly, and consult for their common good, and to apply to the government for a redress of grievances, shall not be infringed.

*August 24, 1789*

Anti-Federalists in the House argued that the right to instruct representatives should be restored to this amendment. The right to assembly and the right to petition, they argued, were simply the means to form these instructions. Elbridge Gerry (MA), for instance, argued that the power of instructing was essential in order to check an administration that might abuse its powers.



# Go Inside the First Congress

## Amendments in Process

### House Article the Fourth

Speech, Press, Assembly, and Petition

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

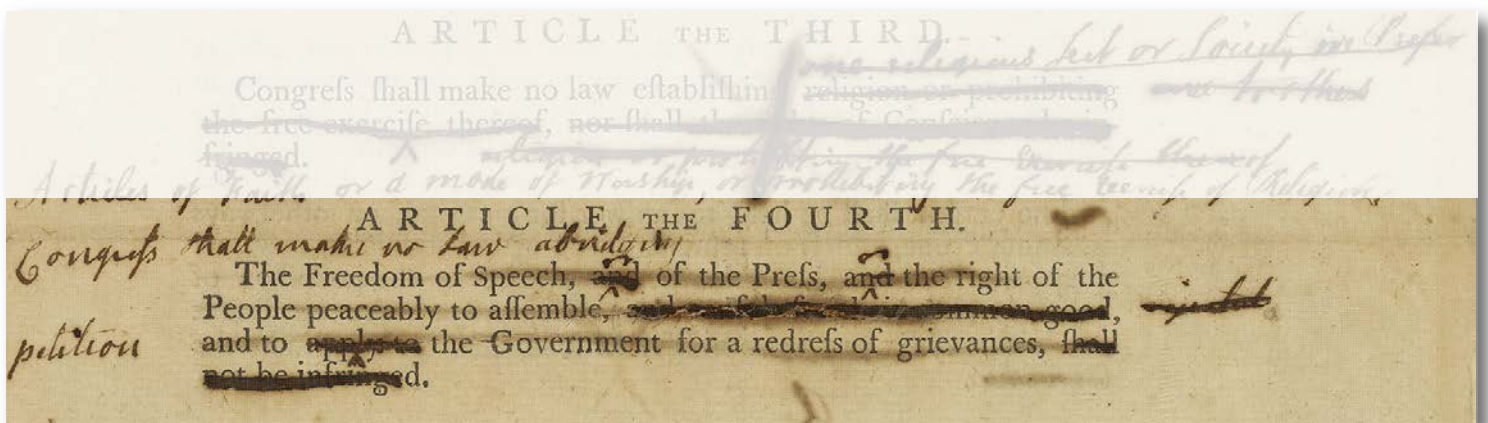
As Ratified by the States

*The Senate combined Articles Three and Four to read:*

Congress shall make no law establishing articles of faith, or a mode of worship, or prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assembly, and to petition to the government for a redress of grievances.

*September 14, 1789*

The Senate's amending and combining of Articles Three and Four brought together in one article language on religious liberty, freedom of the press, freedom of speech, freedom of assembly, and the right to petition.





# Go Inside the First Congress

## Amendments in Process

### House Article the Fourth

#### Speech, Press, Assembly, and Petition

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

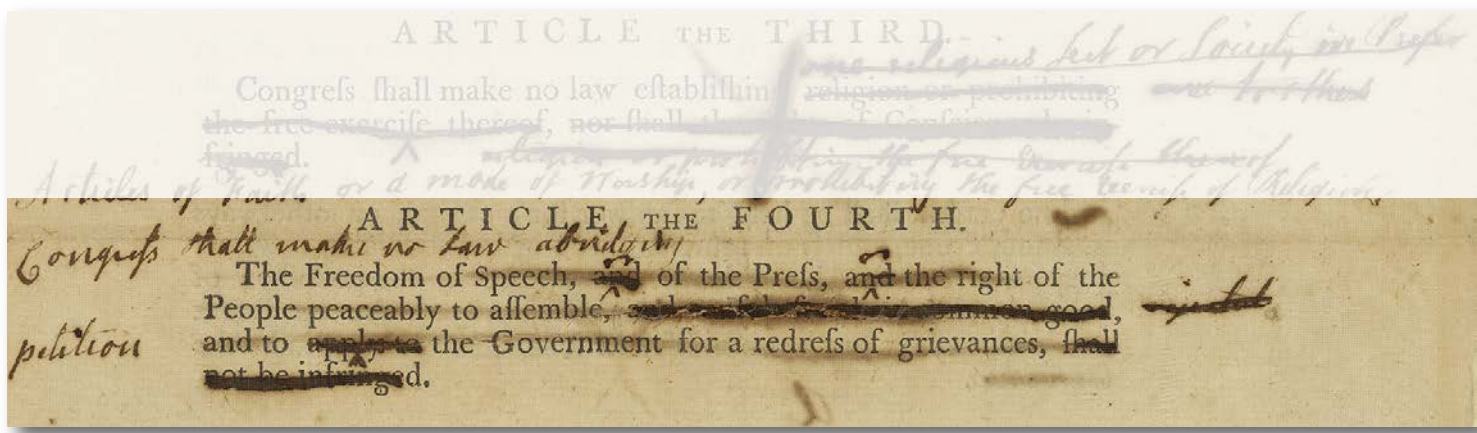
As Sent to the States for Ratification

As Ratified by the States

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 assembly, and to petition the Government for a redress of grievances.

*September 24, 1789*

The only changes made by the Conference Committee were to the religion clause. They did not change the language related to freedom of speech, press, assembly, and petition.





# Go Inside the First Congress

## Amendments in Process

### House Article the Fourth

#### Speech, Press, Assembly, and Petition

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

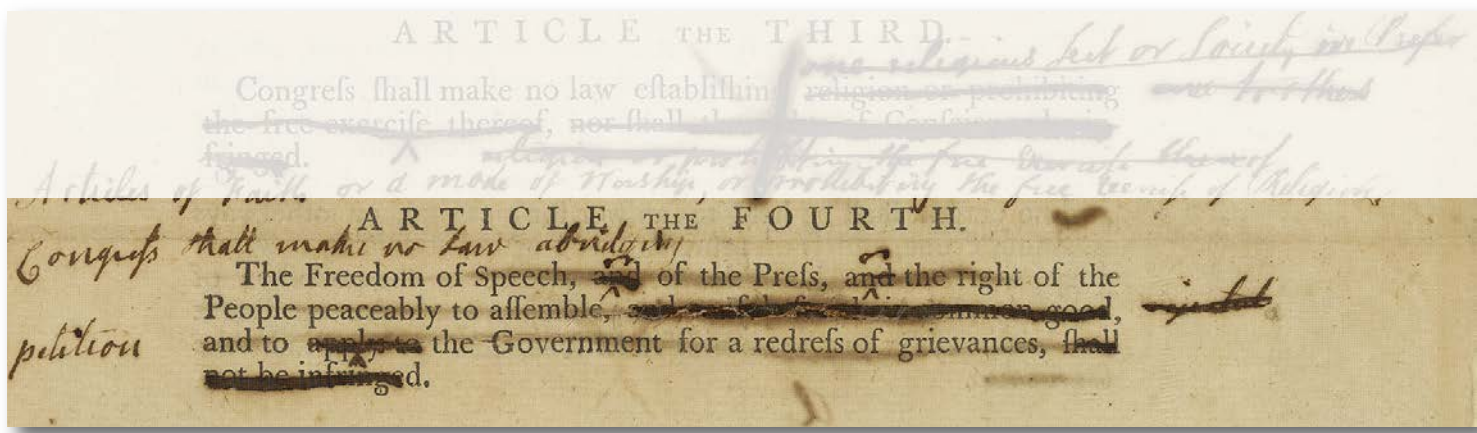
▶ As Sent to the States for Ratification

As Ratified by the States

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.

*October 2, 1789*

The amendment was sent to the states for ratification in this form.



# Go Inside the First Congress

## Amendments in Process

### House Article the Fourth

#### Speech, Press, Assembly, and Petition

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

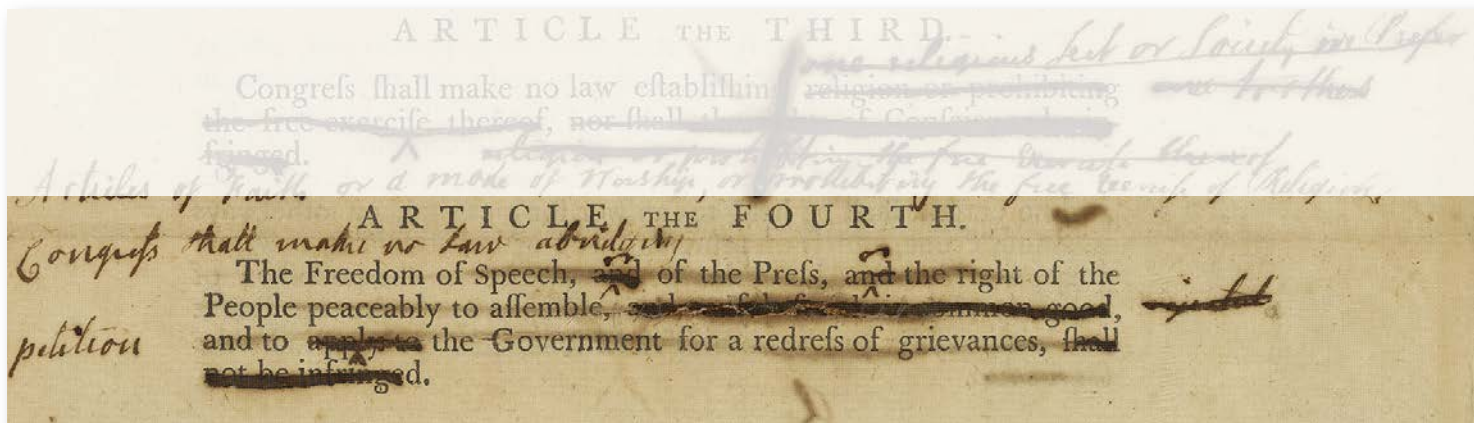
As Sent to the States for Ratification

As Ratified by the States

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.

*December 15, 1791*

This became the First Amendment in the Bill of Rights when the states failed to ratify the two that had preceded it.

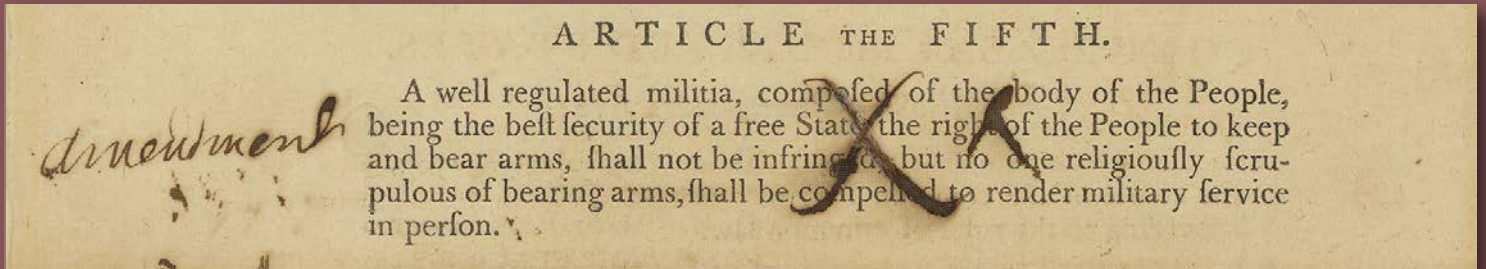


# Go Inside the First Congress

## Amendments in Process

### House Article the Fifth

Arms and Militias



# Go Inside the First Congress

## Amendments in Process

### House Article the Fifth

#### Arms and Militias

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment went through a number of versions with different parts added and subtracted, all reflecting the American experience and values in the founding era. The right to bear arms was an inherited right of Englishmen, and many of the state constitutions expressly protected that right. British tradition and American experience also underscored the critical importance of local and state militias in defense of the community and maintaining order. The fear of a standing army as a threat to liberties was an understandable outgrowth of the presence and actions of the British army before and during the Revolutionary War. All of these found expression at one time in the process of shaping this amendment, although the final version was limited to the importance of the militia and the right to bear arms.

[ 2 ]

### ARTICLE THE FIFTH.

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

*Amendment*

# Go Inside the First Congress

## Amendments in Process

### House Article the Fifth

#### Arms and Militias

▶ Ideas Proposed by State Ratification Conventions

That the people have a right to keep and bear arms; that a well regulated militia composed of the body of the people trained to arms is the proper, natural and safe defense of a free state. That standing armies in times of peace are dangerous to liberty, and therefore ought to be avoided ... That any person religiously scrupulous of bearing arms ought to be exempted upon payment of an equivalent to employ another to bear arms in his stead.  
*Virginia Convention, June 27, 1788*

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

That the People have a right to keep and bear Arms; that a well regulated Militia, including the body of the people capable of bearing Arms, is the proper, natural, and safe defense of a free State.

As Approved or Amended by the Senate

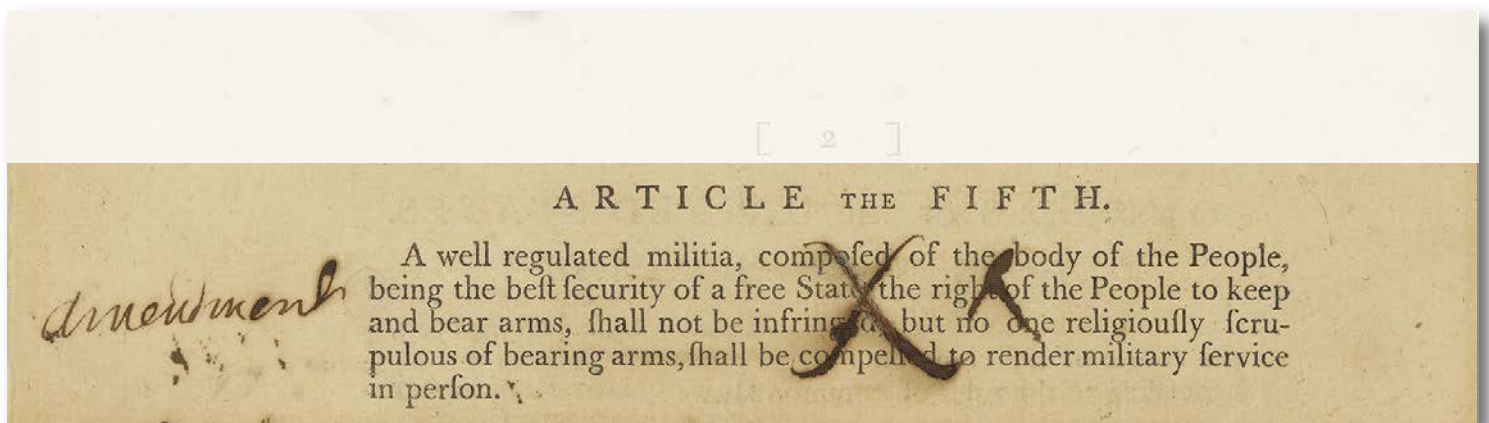
*New York Convention, June 26, 1788*

As Reported by the Conference Committee

Both the Virginia and New York proposals espoused protection for the right to bear arms and the importance of a militia. Virginia also pointed out the danger of a standing army, and advocated that conscientious objectors be allowed to pay for another to serve in their place.

As Sent to the States for Ratification

As Ratified by the States





# Go Inside the First Congress

## Amendments in Process

### House Article the Fifth

#### Arms and Militias

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

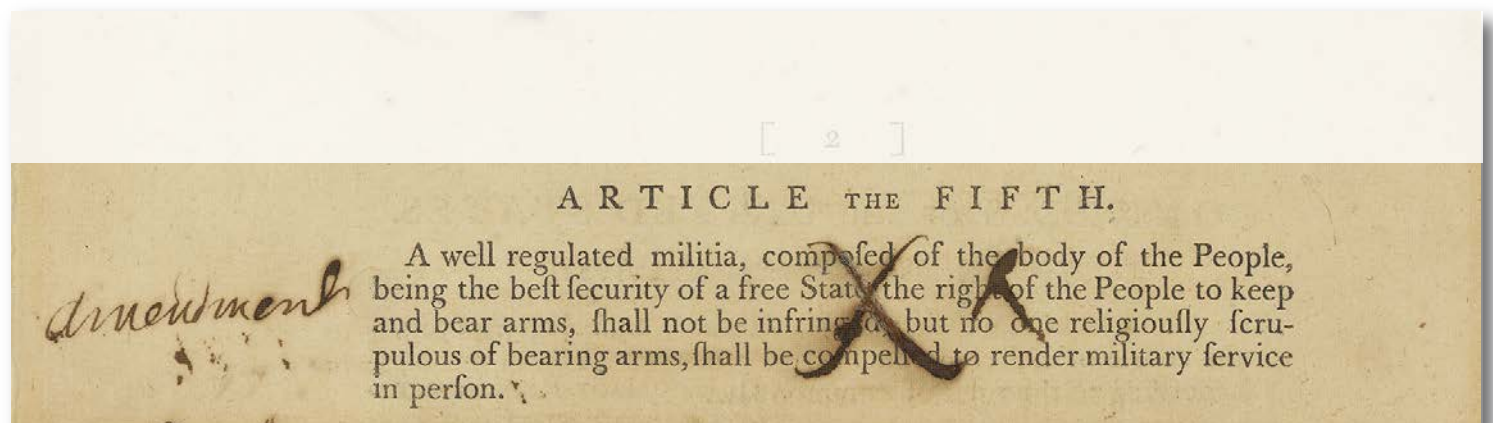
As Ratified  
by the States

*James Madison proposed that the following language be inserted into Article I, Section 9, of the Constitution between Clauses 3 and 4:*

The right of the people to keep and bear arms shall not be infringed; a well armed and well regulated militia being the best security of a free country: but no person religiously scrupulous of bearing arms shall be compelled to render military service in person.

*June 8, 1789*

Madison's proposed amendment consisted of three elements: the right to keep and bear arms, the public militia, and the right of conscientious objection to militia service.



# Go Inside the First Congress

## Amendments in Process

### House Article the Fifth

#### Arms and Militias

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

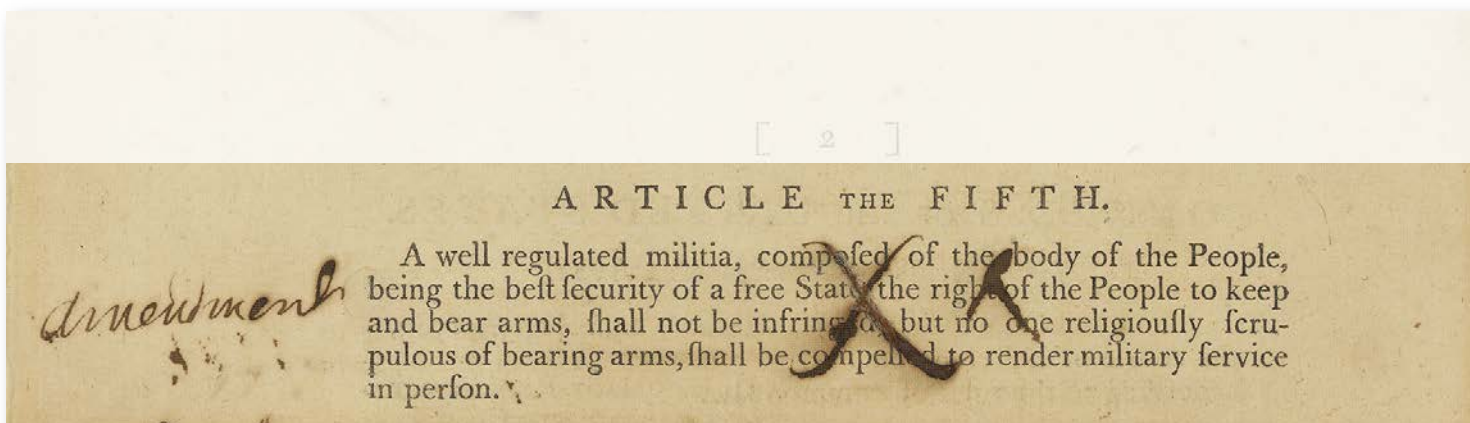
As Ratified  
by the States

*Article I, Section 9—Between Clauses 2 and 3 insert:*

A well regulated militia, composed of the body of the people, being the best security of a free State, the right of the people to keep and bear arms shall not be infringed, but no person religiously scrupulous shall be compelled to bear arms.

*July 28, 1789*

The House Select Committee switched the order of the proposed amendment's phrases, placing the militia first. They also tied the importance of the militia to the state rather than to the nation.



# Go Inside the First Congress

## Amendments in Process

### House Article the Fifth

#### Arms and Militias

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

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.

*August 24, 1789*

The "religiously scrupulous" would be those whose conscience or scruples would prevent them from militia service. The Anti-Federalists, led by Elbridge Gerry (MA), focused on this part of the amendment warning that "people in power" could "declare who are those religiously scrupulous, and prevent them from bearing arms." In this way they would undermine militias, whose purpose is, "to prevent the establishment of a standing army." Gerry continued, "Whenever governments mean to invade the rights and liberties of the people, they always attempt to destroy the militia, in order to raise an army upon their ruins."

[ 2 ]

#### ARTICLE THE FIFTH.

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

*Amendment*

# Go Inside the First Congress

## Amendments in Process

### House Article the Fifth

#### Arms and Militias

Ideas Proposed by State  
Ratification Conventions

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.

As Proposed by  
James Madison

*September 14, 1789*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

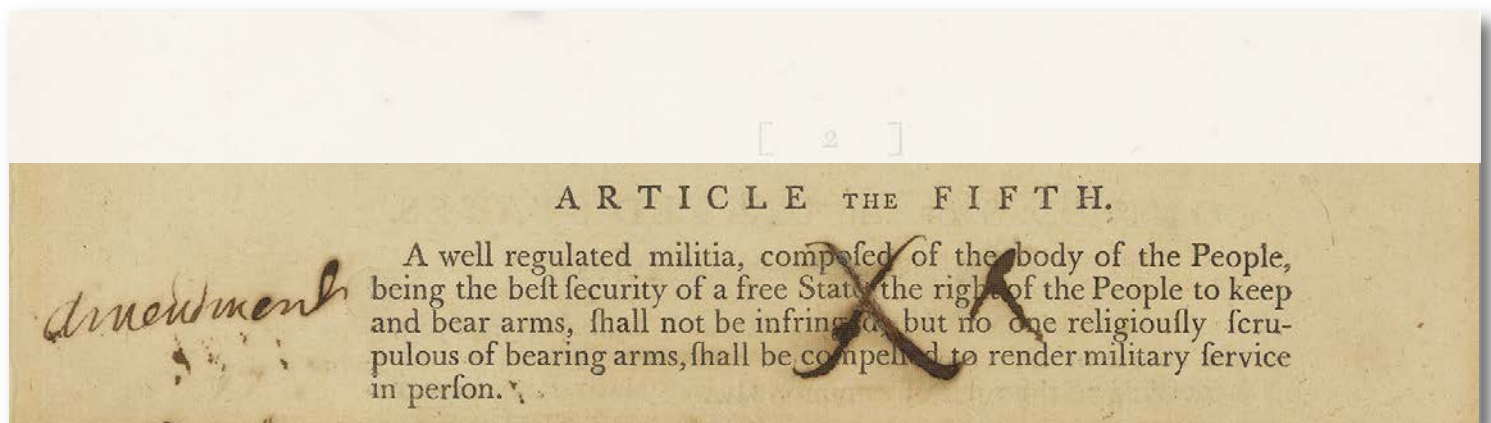
As Approved or  
Amended by the Senate

The Senate changed the phrasing of the amendment and dropped the terms related to those scrupulous of bearing arms and performing military service.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States



# Go Inside the First Congress

## Amendments in Process

### House Article the Fifth

#### Arms and Militias

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was not considered by the Conference Committee since the House agreed to the Senate's changes on September 21, 1789.

[ 2 ]

#### ARTICLE THE FIFTH.

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

*Amendment*

# Go Inside the First Congress

## Amendments in Process

### House Article the Fifth

#### Arms and Militias

Ideas Proposed by State  
Ratification Conventions

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.

As Proposed by  
James Madison

*October 2, 1789*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

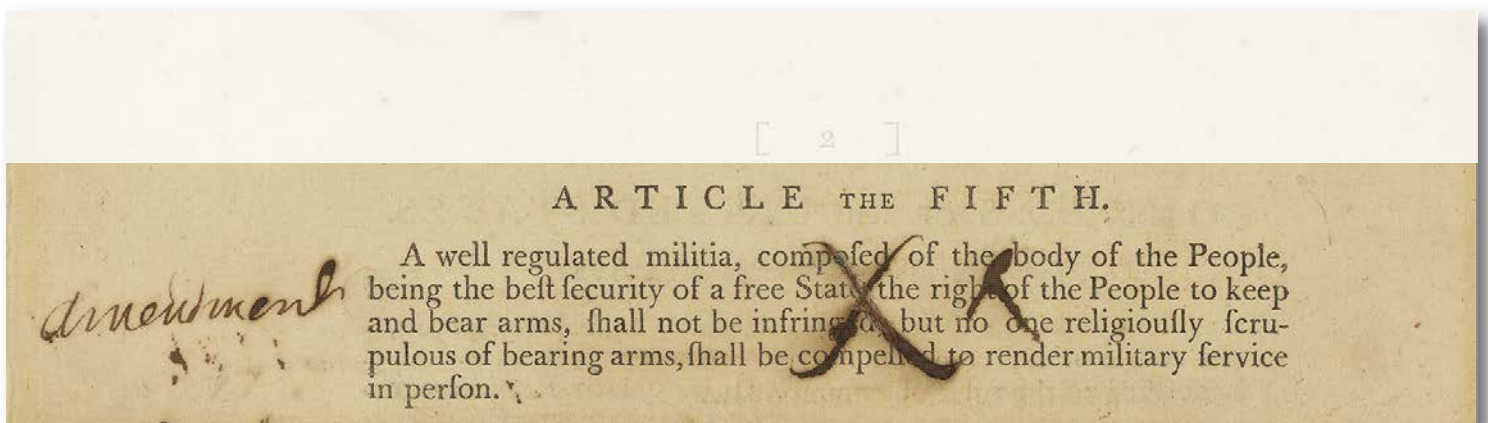
As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

The amendment was sent to the states for ratification in this form.

▶ As Sent to the States  
for Ratification

As Ratified  
by the States



# Go Inside the First Congress

## Amendments in Process

### House Article the Fifth

#### Arms and Militias

Ideas Proposed by State  
Ratification Conventions

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.

As Proposed by  
James Madison

*December 15, 1791*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

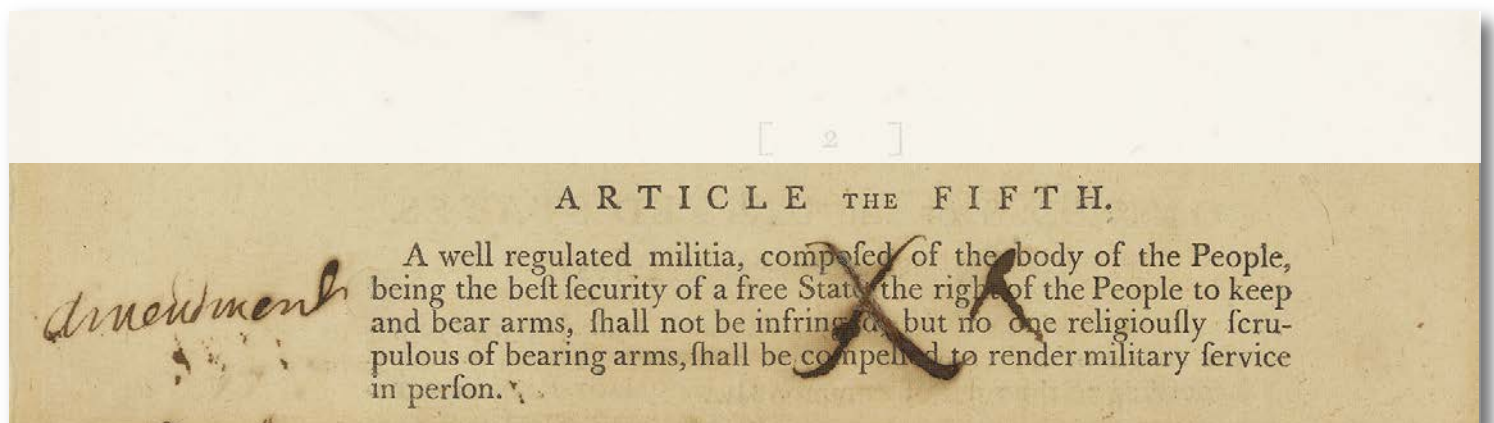
As Approved or  
Amended by the Senate

Ratified by the states as the Second Amendment in the Bill of Rights.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States



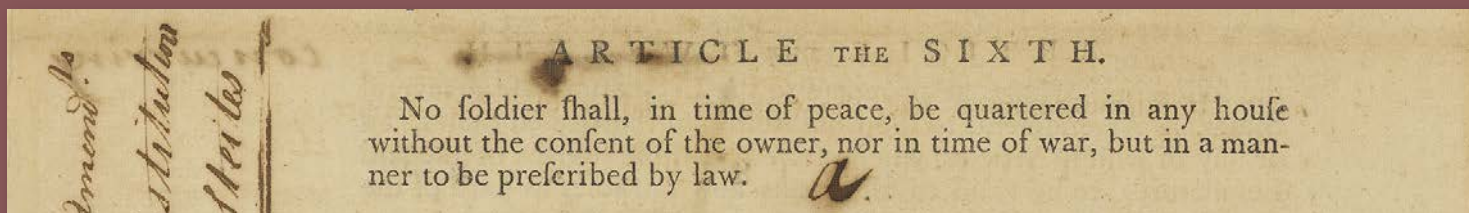


# Go Inside the First Congress

## Amendments in Process

### House Article the Sixth

Quartering of Troops





# Go Inside the First Congress

## Amendments in Process

### House Article the Sixth

#### Quartering of Troops

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

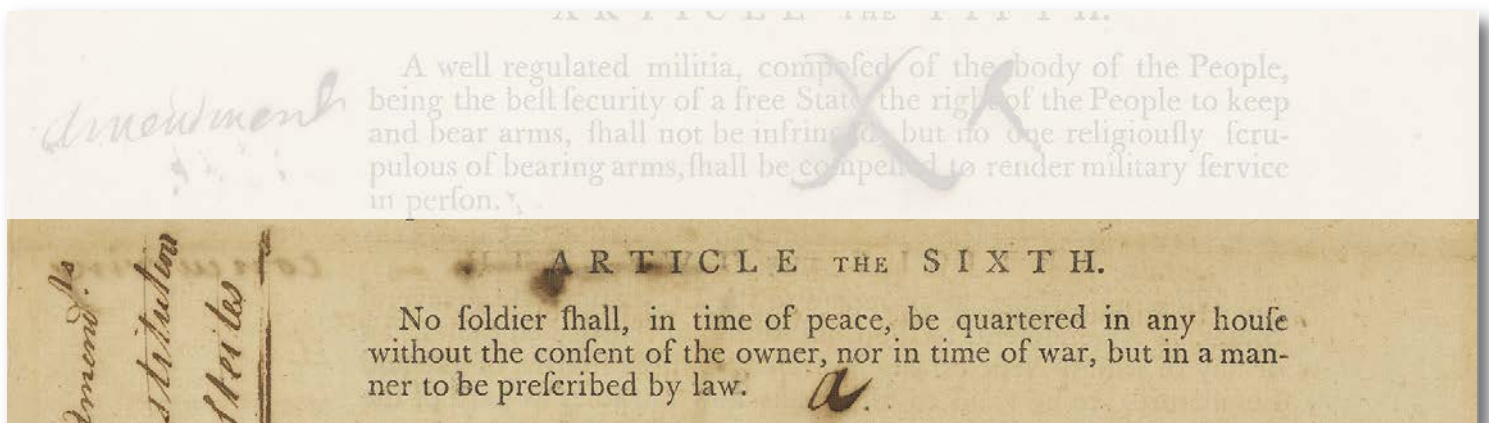
As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

Quartering Acts passed by the British Parliament in the decade before the Revolution required that colonial legislatures quarter, or lodge, British troops in public buildings or in a variety of private businesses such as inns or taverns. The practice was contentious from the start, and when one of the “Intolerable Acts” of 1774 extended lodging to private homes, it inflamed American opinion against the practice and reinforced the idea that “a man’s home is his castle.” Quartering was one of the grievances identified in the Declaration of Independence, and six of the states banned the practice in their new constitutions. Shared experiences and opinions meant that the amendment was passed with only minimal changes by the First Congress.



# Go Inside the First Congress

## Amendments in Process

### House Article the Sixth

#### Quartering of Troops

Ideas Proposed by State Ratification Conventions

Nor shall soldiers in Time of Peace be Quartered upon private Houses without the consent of the Owners.

*New Hampshire Convention, June 21, 1788*

As Proposed by James Madison

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

*Virginia Convention, June 27, 1788*

As Proposed by the House Committee

As Passed by the House of Representatives

That in time of Peace no Soldier ought to be quartered in any House without the consent of the Owner, and in time of War only by the civil Magistrate in such manner as the Laws may direct.

*New York Convention, July 26, 1788*

As Approved or Amended by the Senate

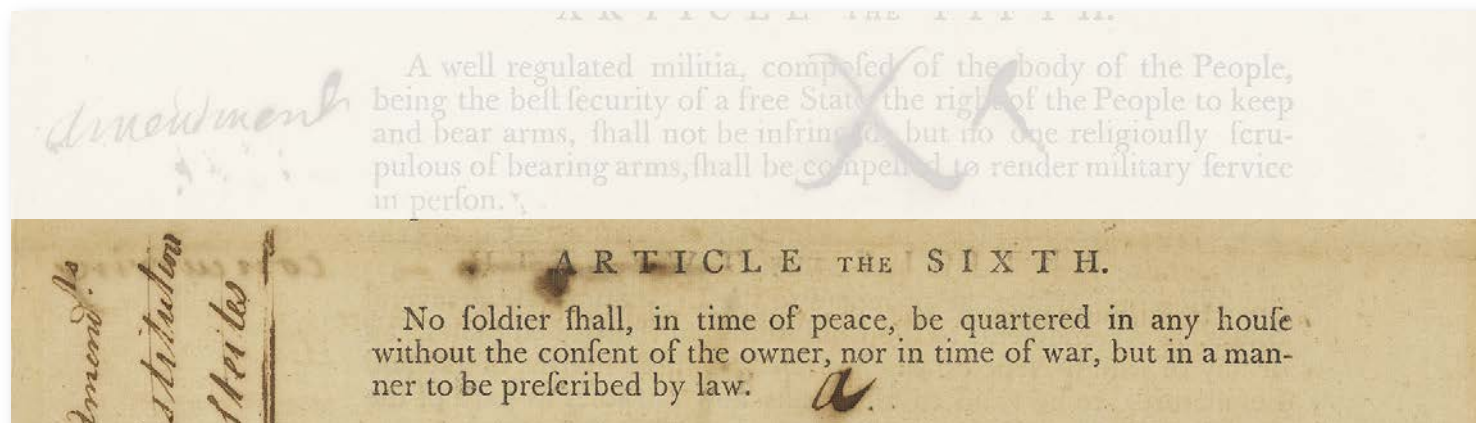
As Reported by the Conference Committee

The three conventions' proposals on quartering distinguished between times of peace and war.

In peacetime, quartering was permitted only with the consent of the homeowner. In wartime, quartering would be permissible within guidelines set out by law in regard to the requirement to provide lodging for members of the armed services.

As Sent to the States for Ratification

As Ratified by the States



# Go Inside the First Congress

## Amendments in Process

### House Article the Sixth

#### Quartering of Troops

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

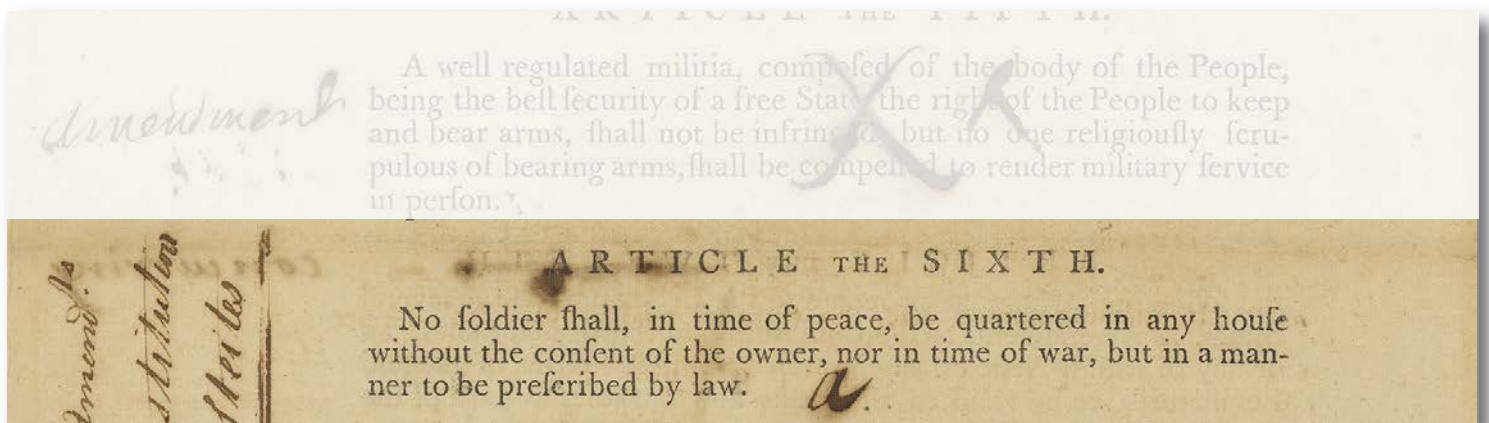
As Ratified  
by the States

*James Madison proposed that the following language be inserted into Article I, Section 9, of the Constitution between Clauses 3 and 4:*

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

*June 8, 1789*

Madison blurred the distinction between peace and war made in the state conventions. At all times, quartering would be guided by law, but in peacetime, the owner would also have the power to refuse to house soldiers.



# Go Inside the First Congress

## Amendments in Process

### House Article the Sixth

#### Quartering of Troops

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

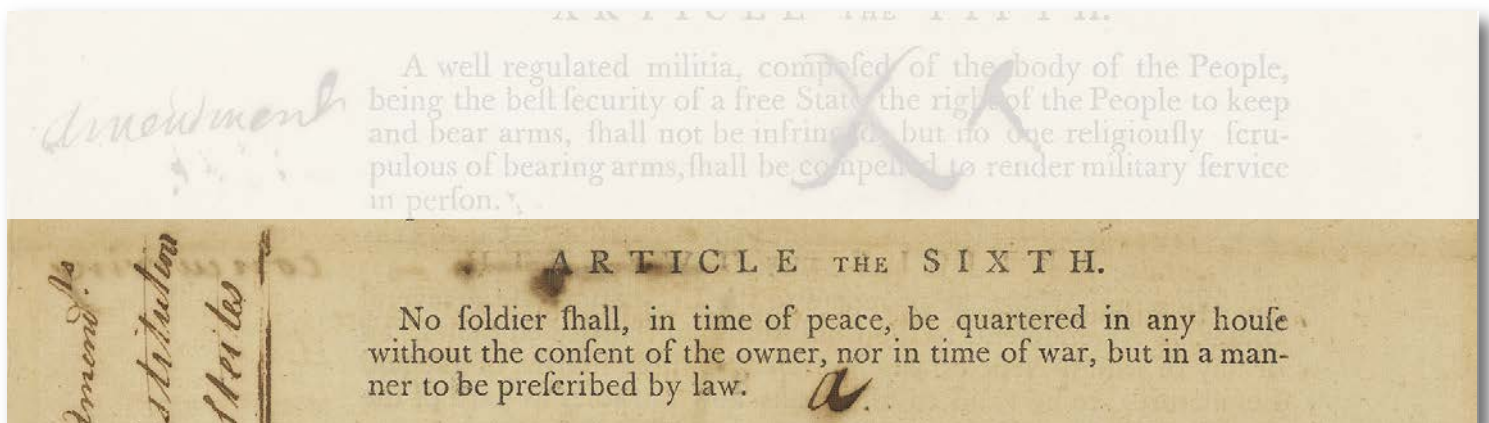
As Ratified  
by the States

*Article I, Section 9—Between Clauses 2 and 3 insert:*

No soldiers 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.

*July 28, 1789*

The Committee of Eleven restored the distinction between peace and wartimes regarding the lodging of members of the armed service.



# Go Inside the First Congress

## Amendments in Process

### House Article the Sixth

#### Quartering of Troops

Ideas Proposed by State Ratification Conventions

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.

As Proposed by James Madison

*August 24, 1789*

As Proposed by the House Committee

As Passed by the House of Representatives

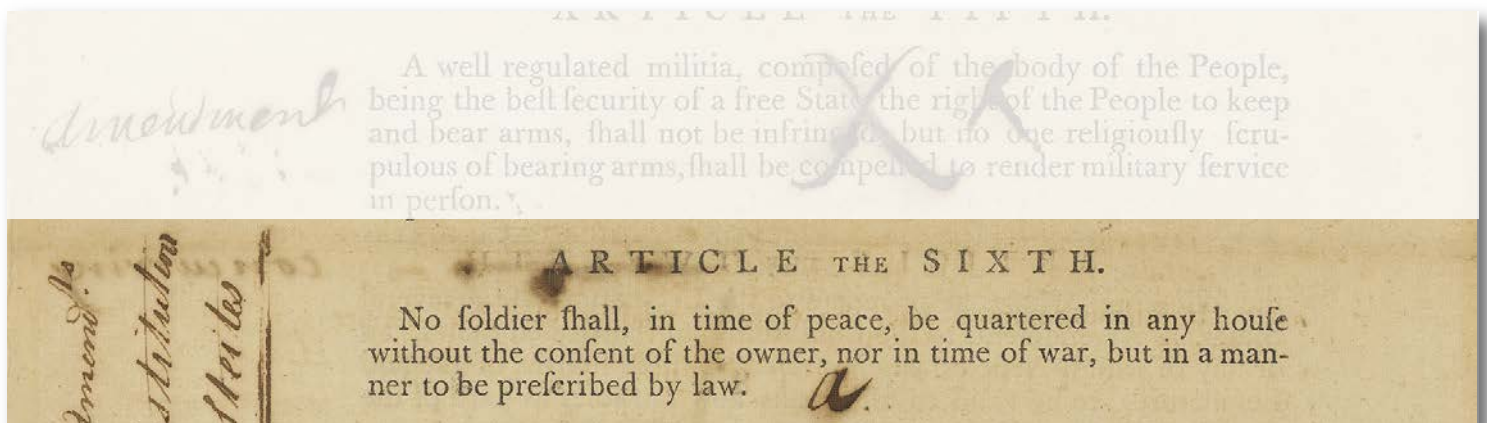
The House passed the amendment as it was proposed by the Select Committee. The debate in the House focused on the right of the homeowner to refuse to lodge troops. Anti-Federalist Thomas Sumter (SC) argued for a complete ban on the practice. Federalist Roger Sherman (CT), however, cautioned against “going too far; occasion might arise in which it would be extremely injurious to put it in the power of any man to obstruct the public service.” Sherman would have left the question of quartering to law but would have eliminated the owner’s absolute power to refuse.

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States



# Go Inside the First Congress

## Amendments in Process

### House Article the Sixth

#### Quartering of Troops

Ideas Proposed by State  
Ratification Conventions

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.

As Proposed by  
James Madison

*September 14, 1789*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

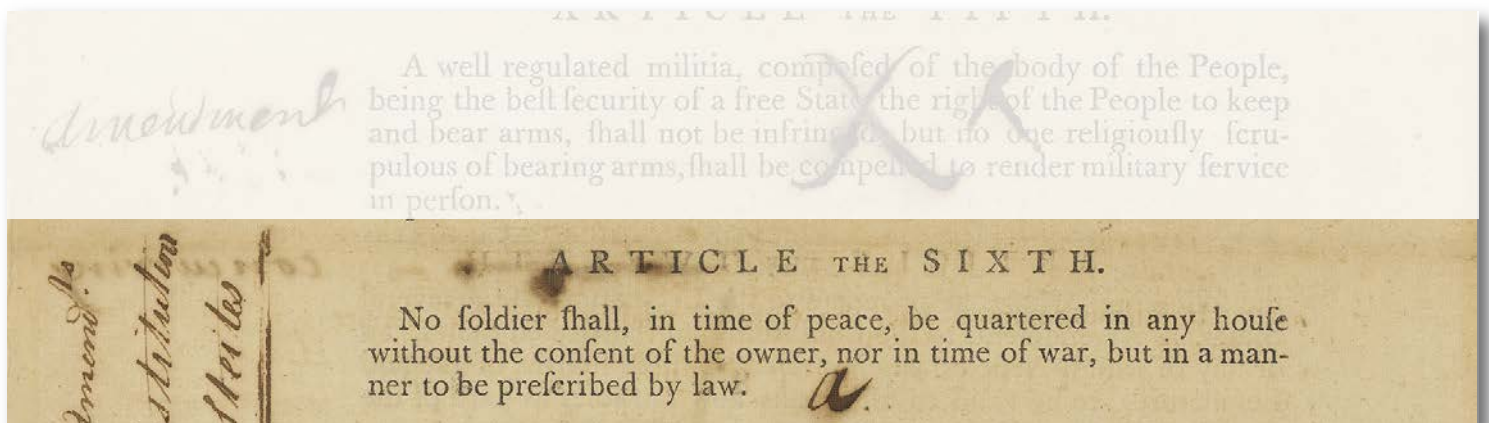
As Approved or  
Amended by the Senate

The Senate approved the House version of the amendment.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States



# Go Inside the First Congress

## Amendments in Process

### House Article the Sixth

#### Quartering of Troops

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

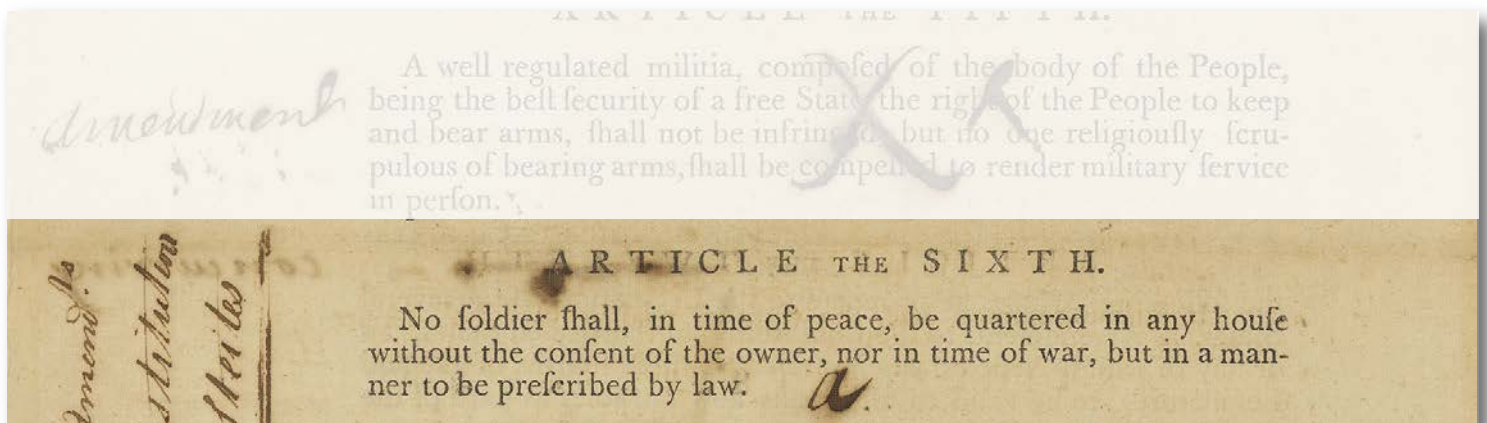
As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was not considered by the Conference Committee since the House and Senate approved it in the same form.



# Go Inside the First Congress

## Amendments in Process

### House Article the Sixth

#### Quartering of Troops

Ideas Proposed by State Ratification Conventions

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.

As Proposed by James Madison

*October 2, 1789*

As Proposed by the House Committee

As Passed by the House of Representatives

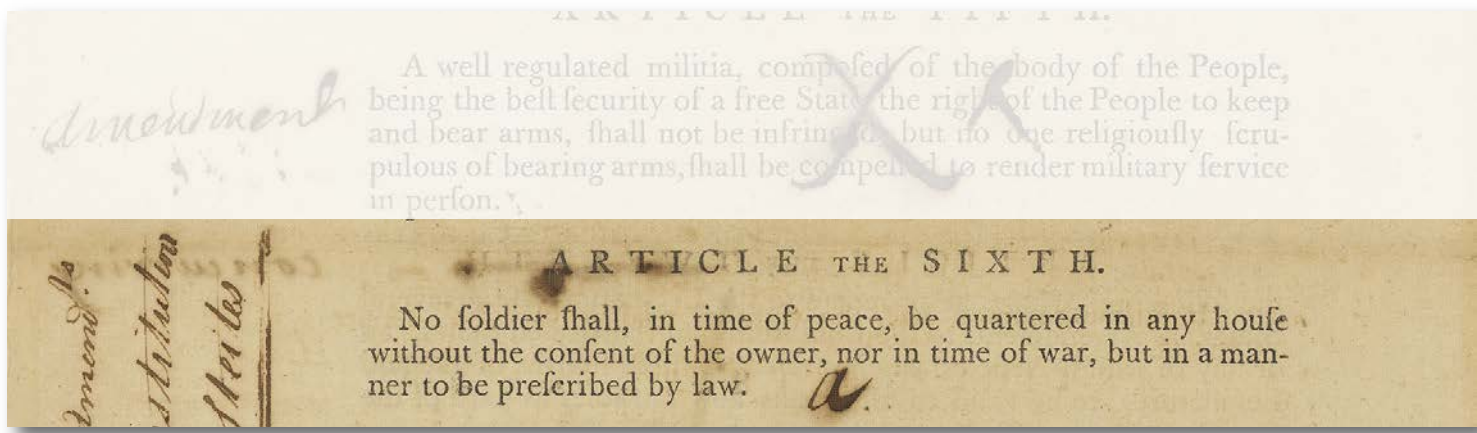
As Approved or Amended by the Senate

The amendment was sent to the states for ratification in this form.

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States





# Go Inside the First Congress

## Amendments in Process

### House Article the Sixth

#### Quartering of Troops

Ideas Proposed by State Ratification Conventions

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.

As Proposed by James Madison

*December 15, 1791*

As Proposed by the House Committee

As Passed by the House of Representatives

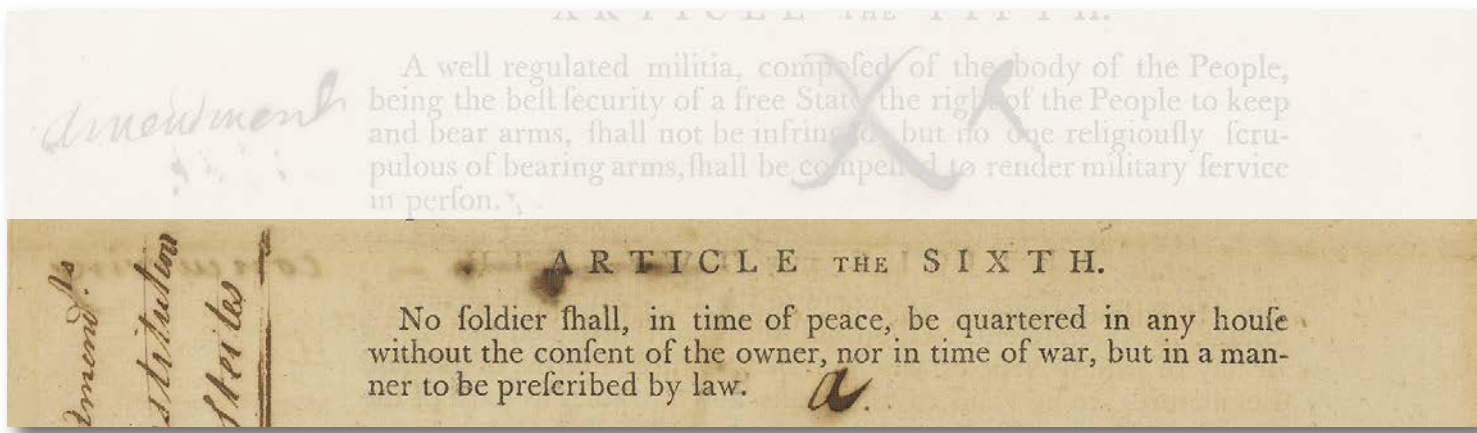
As Approved or Amended by the Senate

Ratified by the states as the Third Amendment in the Bill of Rights.

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

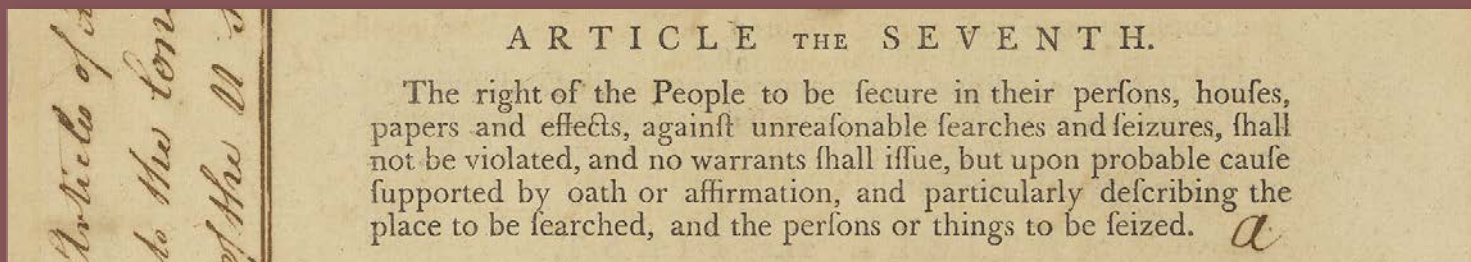


## Go Inside the First Congress

### Amendments in Process

#### House Article the Seventh

##### Unreasonable Searches



# Go Inside the First Congress

## Amendments in Process

### House Article the Seventh

#### Unreasonable Searches

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

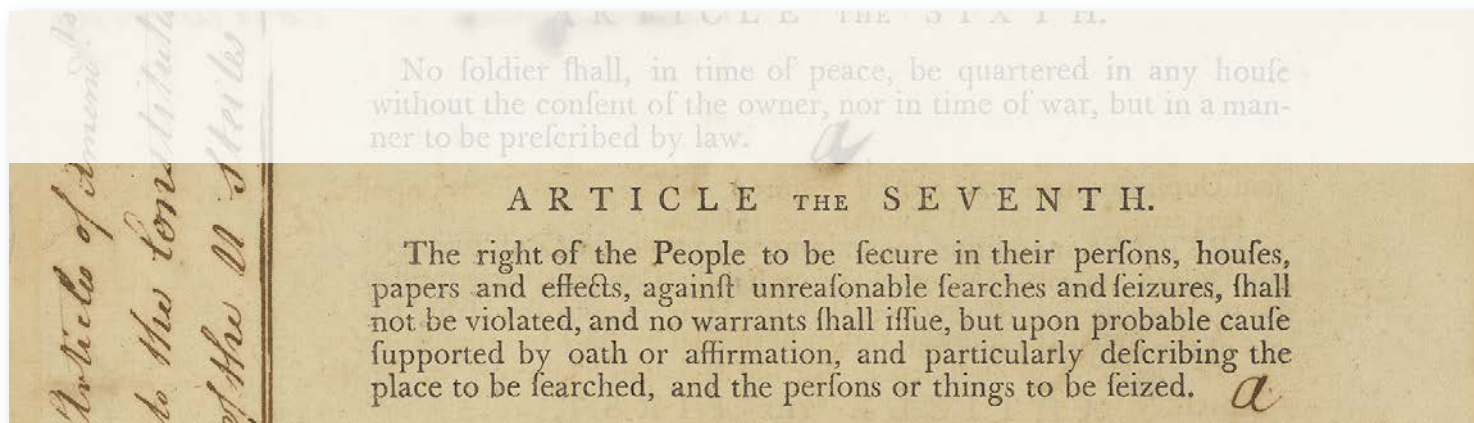
As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This article and its protection against unreasonable searches and seizures of private property had its origins in English traditions, although it was more often violated than observed in practice by the king and Parliament. British authorities at home and abroad often used general, unspecified warrants to search private homes, especially for the purpose of collecting taxes and duties owed by citizens and subjects. In 1756, in what has been called a watershed moment in the history of Anglo-American law, the colony of Massachusetts passed the first law offering limited protection against general warrants in protest against a British tax on the consumption of distilled spirits. Many of the new state constitutions written during the Revolution also included some protections against general warrants and unreasonable searches, and some states expected the same protection against the new federal government.



# Go Inside the First Congress

## Amendments in Process

### House Article the Seventh

#### Unreasonable Searches

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

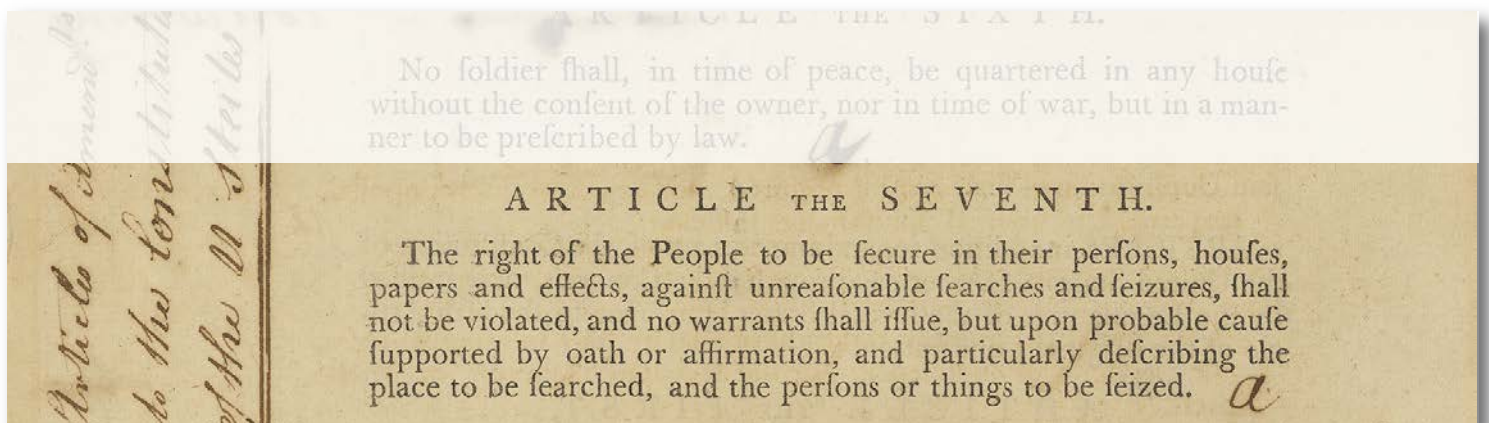
As Sent to the States  
for Ratification

As Ratified  
by the States

That every freeman has a right to be secure from all unreasonable searches and seizures of his person, his papers and his property; all warrants, therefore, to search suspected places, or seize any freeman, his papers or property, without information upon Oath (or affirmation of a person religiously scrupulous of taking an oath) of legal and sufficient cause, are grievous and oppressive; and all general Warrants to search suspected places, or to apprehend any suspected person, without specifically naming or describing the place or person, are dangerous and ought not to be granted.

*Virginia Convention, June 27, 1788*

The Virginia Convention revised the language that first appeared in the Virginia Declaration of Rights of 1776, and advocated its application to the federal government.



# Go Inside the First Congress

## Amendments in Process

### House Article the Seventh

#### Unreasonable Searches

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

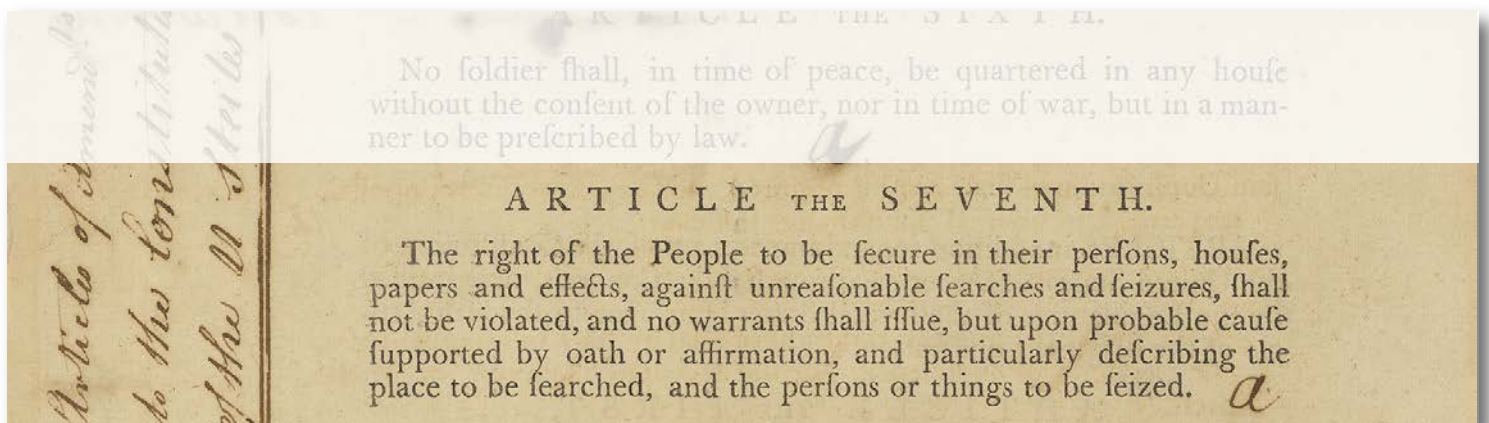
As Ratified  
by the States

*James Madison proposed that the following language be inserted into Article I, Section 9, of the Constitution between Clauses 3 and 4:*

The rights of the people to be secured in their persons, their houses, their papers, and their other property, from all unreasonable searches and seizures, shall not be violated by warrants issued without probable cause, supported by oath or affirmation, or not particularly describing the places to be searched, or the persons or things to be seized.

*June 8, 1789*

Madison's proposal restated the point made in the Virginia Convention, but it changed the prerequisite from "legal and sufficient" to "probable cause."



# Go Inside the First Congress

## Amendments in Process

### House Article the Seventh

#### Unreasonable Searches

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

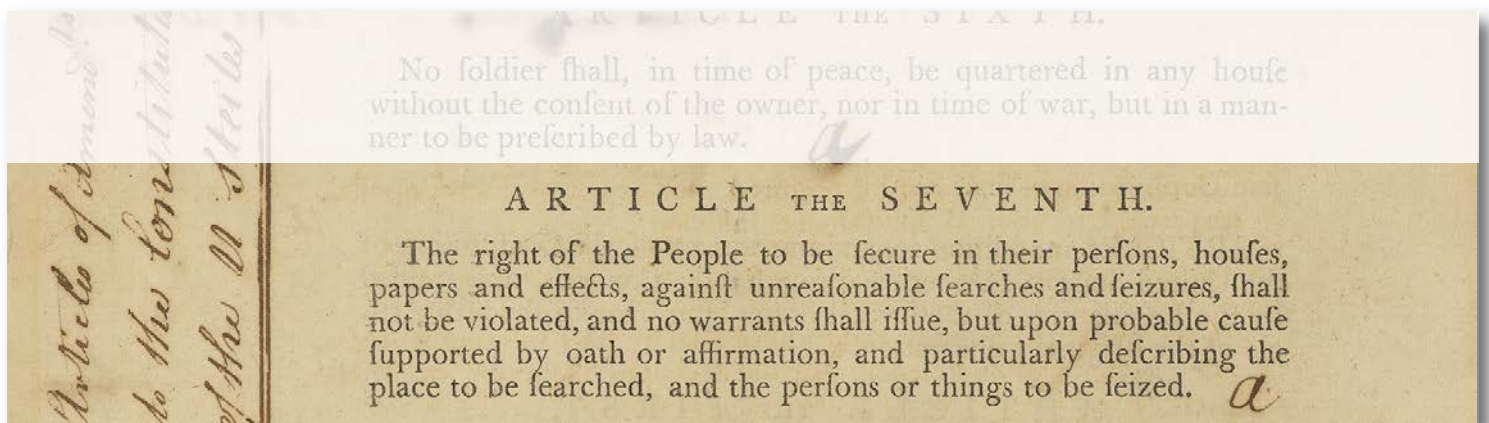
As Ratified  
by the States

*Article I, Section 9—Between Clauses 2 and 3 insert:*

The right of the people to be secure in their person, houses, papers and effects, shall not be violated by warrant issuing, without probable cause supported by oath or affirmation, and not particularly describing the places to be searched, and the persons or things to be seized.

*July 28, 1789*

The House Select Committee changed the wording of this proposed amendment from a general ban on unreasonable searches to a more specific ban on searches stemming from warrants issued without probable cause.



# Go Inside the First Congress

## Amendments in Process

### House Article the Seventh

#### Unreasonable Searches

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

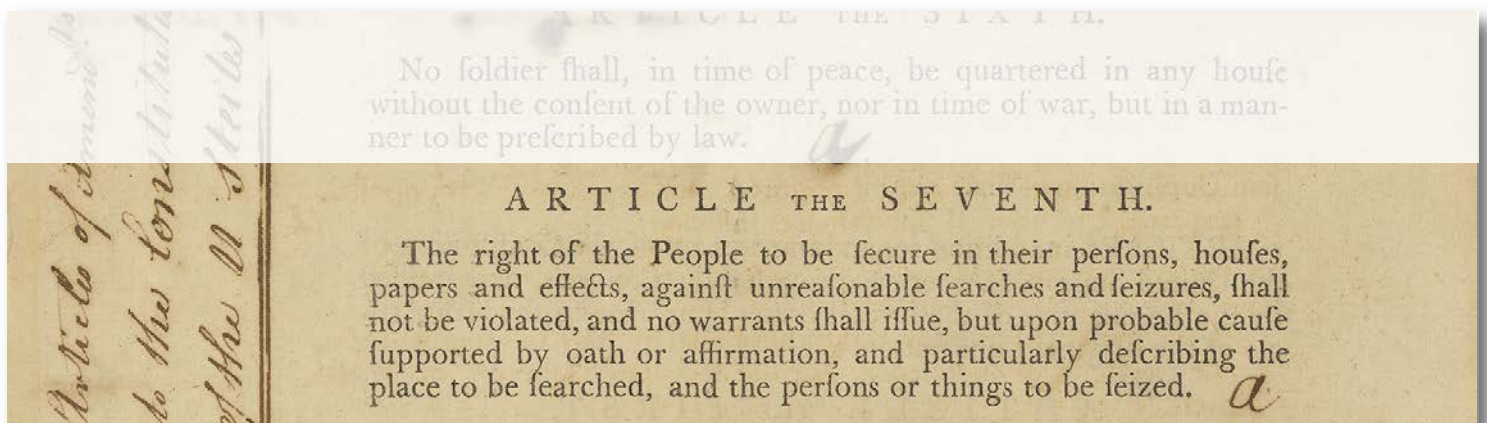
As Sent to the States  
for Ratification

As Ratified  
by the States

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.

*August 24, 1789*

The House debate was limited to members offering suggestions to clarify the wording. For example, Federalist Egbert Benson (NY) suggested substituting the phrase “and effects” for the word “property” to clarify the intent to secure personal possessions as well as real estate. The amendment made it necessary for an authority to go to court and receive a warrant before conducting a search.



# Go Inside the First Congress

## Amendments in Process

### House Article the Seventh

#### Unreasonable Searches

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

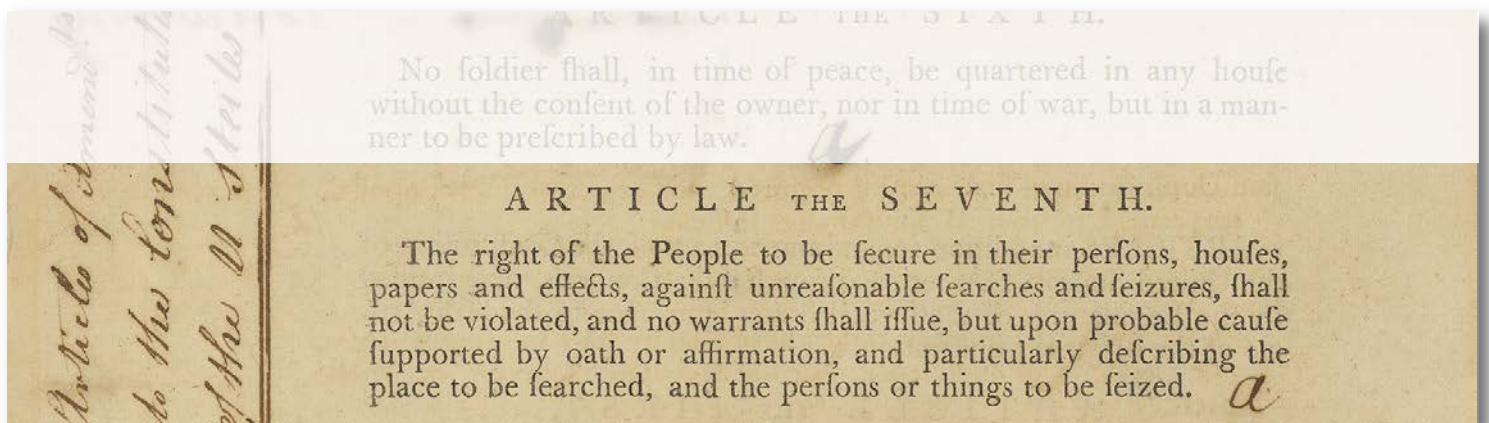
As Sent to the States  
for Ratification

As Ratified  
by the States

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.

*September 14, 1789*

The Senate adopted the House version of the amendment.





# Go Inside the First Congress

## Amendments in Process

### House Article the Seventh

#### Unreasonable Searches

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

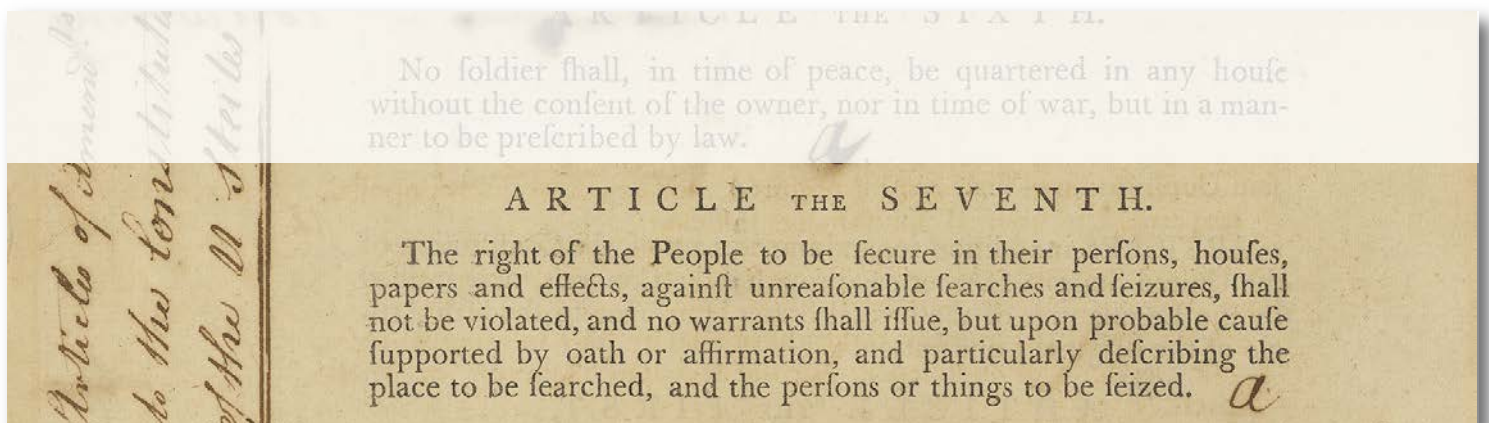
As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was not considered by the Conference Committee since the House and the Senate approved it in the same form.



# Go Inside the First Congress

## Amendments in Process

### House Article the Seventh

#### Unreasonable Searches

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

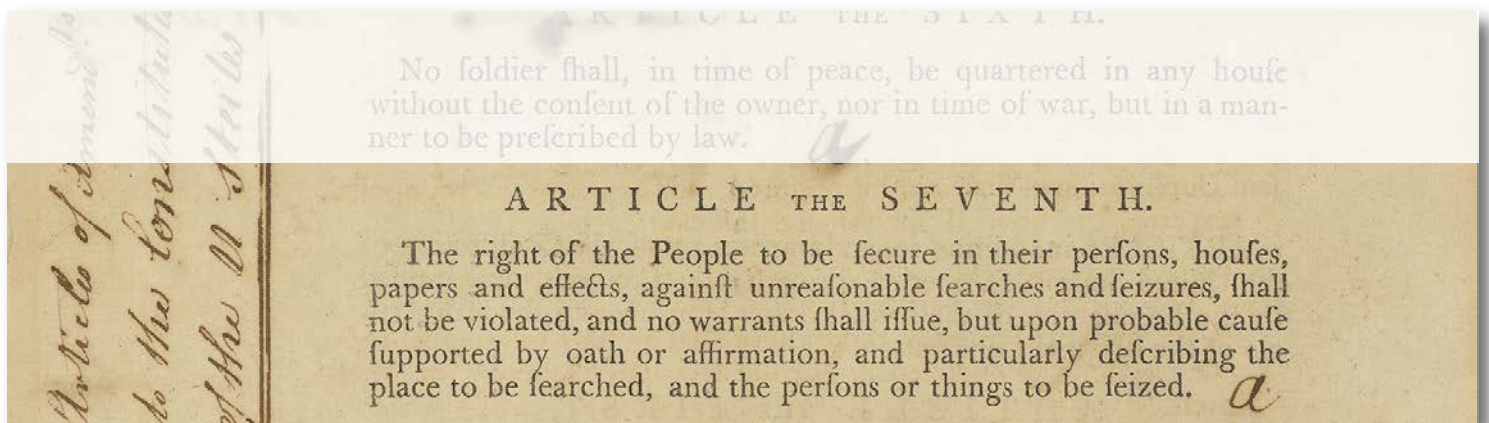
As Sent to the States  
for Ratification

As Ratified  
by the States

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.

*October 2, 1789*

The amendment was sent to the states for ratification in this form.



# Go Inside the First Congress

## Amendments in Process

### House Article the Seventh

#### Unreasonable Searches

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

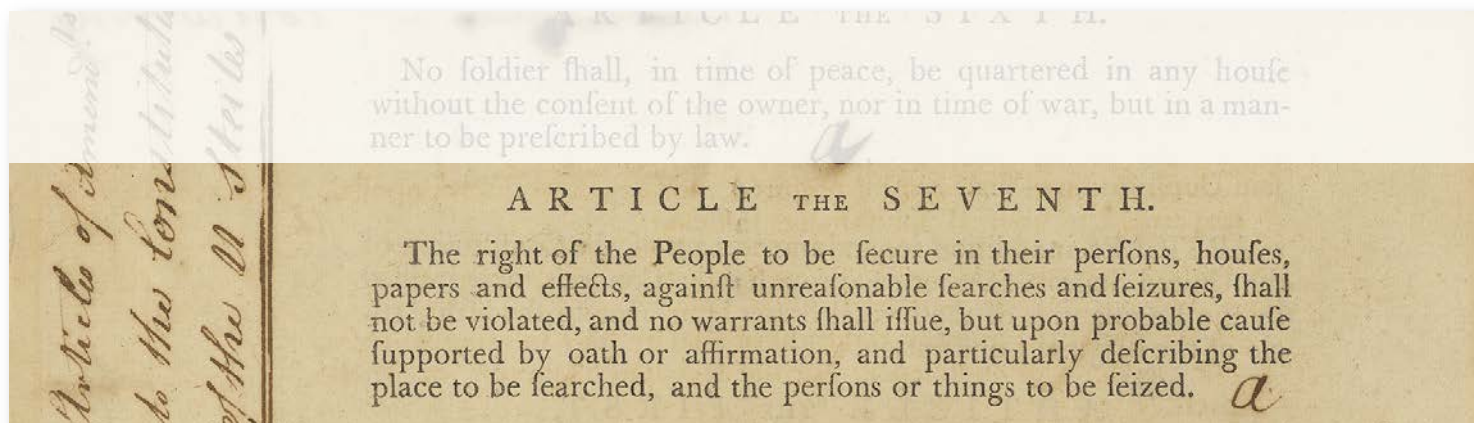
As Sent to the States  
for Ratification

As Ratified  
by the States

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.

*December 15, 1789*

Ratified by the states as the Fourth Amendment in the Bill of Rights.



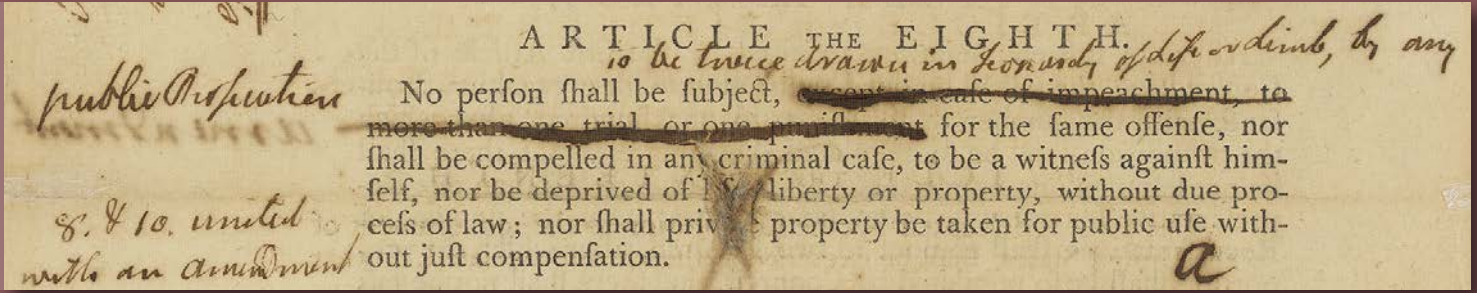


# Go Inside the First Congress

## Amendments in Process

### House Article the Eighth

Self-incrimination



# Go Inside the First Congress

## Amendments in Process

### House Article the Eighth

#### Self-incrimination

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

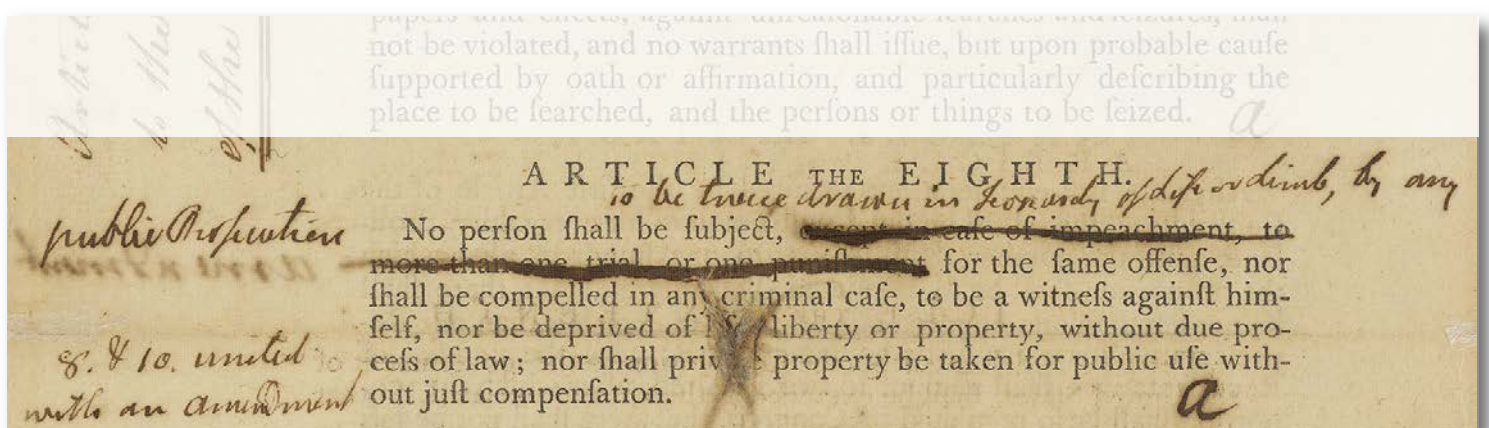
As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

Protection against self-incrimination was a traditional right of Englishmen that found written expression in Virginia's Declaration of Rights in 1776. Other states included similar protections in their new state constitutions, and it was introduced as an amendment in the First Congress. This amendment also included the traditional protection against double jeopardy and the right of due process to ensure fairness in courts of law.



# Go Inside the First Congress

## Amendments in Process

### House Article the Eighth

#### Self-incrimination

Ideas Proposed by State Ratification Conventions

In all capital and criminal prosecutions, a man hath a right to demand the cause and nature of his accusation, to be allowed counsel in his favor, and to a fair and speedy trial by an impartial Jury of his vicinage, without whose unanimous consent he cannot be found guilty, (except in the government of the land and naval forces) nor can he be compelled to give evidence against himself.

*Virginia Convention, June 27, 1788*

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

In all Criminal prosecutions, the Accused ought to be informed of the cause and nature of his Accusation ... and should not be compelled to give Evidence against himself.

*New York Convention, July 26, 1788*

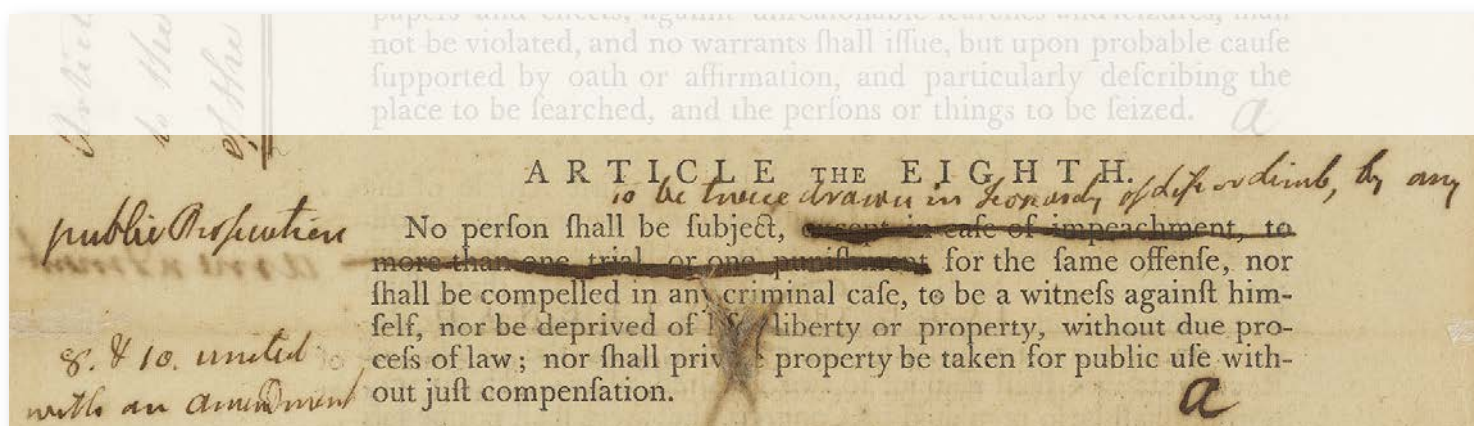
As Approved or Amended by the Senate

As Reported by the Conference Committee

Two state conventions proposed that due-process rights guaranteed in their state courts be applied to the federal courts.

As Sent to the States for Ratification

As Ratified by the States



# Go Inside the First Congress

## Amendments in Process

### House Article the Eighth

#### Self-incrimination

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

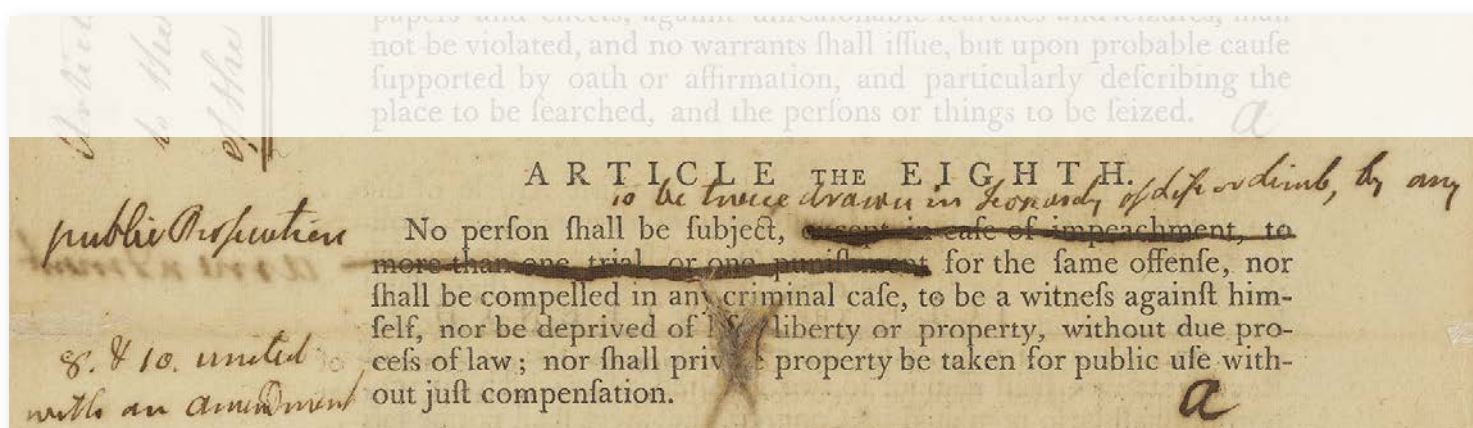
As Ratified  
by the States

*James Madison proposed that the following language be inserted into Article I, Section 9, of the Constitution between Clauses 3 and 4:*

No person shall be subject, except in cases of impeachment, to more than one punishment, or one trial for the same offence; nor shall be compelled to be a witness against himself: nor be deprived of life, liberty, or property, without due process of law; nor be obliged to relinquish his property, where it may be necessary for public use, without a just compensation.

*June 8, 1789*

Madison proposed the due-process guarantees against self-incrimination and double jeopardy separately from the jury trial guarantees. He also added a ban on taking private property without compensation.



# Go Inside the First Congress

## Amendments in Process

### House Article the Eighth

#### Self-incrimination

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

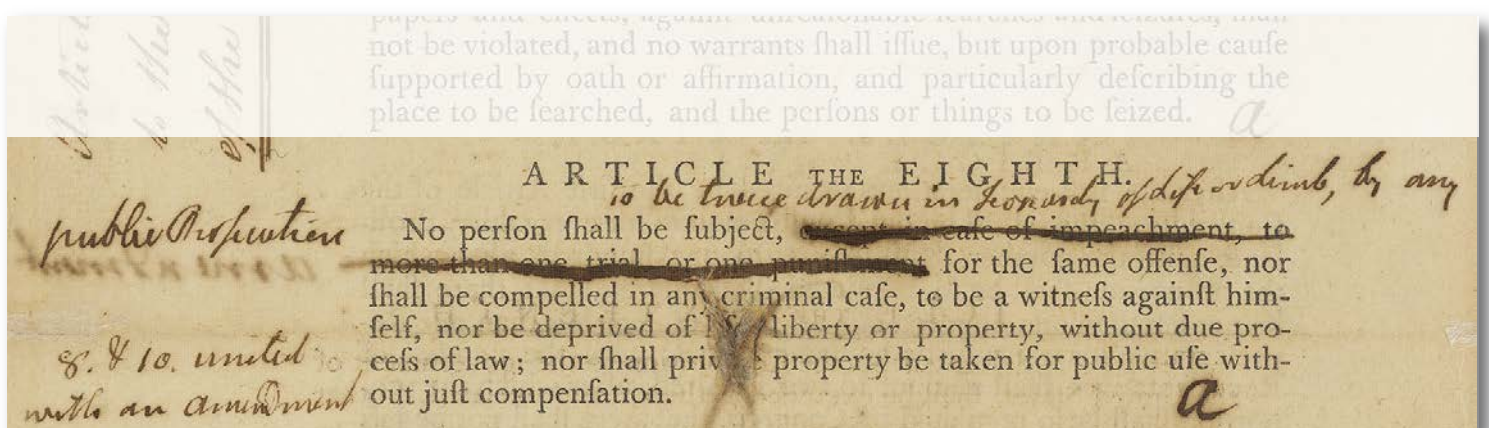
As Ratified  
by the States

*Article I, Section 9—Between Clauses 2 and 3 insert:*

No person shall be subject, except in case of impeachment, to more than one trial, or one punishment for the same offense, nor shall be compelled to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

*July 28, 1789*

The Committee of Eleven made a minor change in wording, reversing the order of trial and punishment.





# Go Inside the First Congress

## Amendments in Process

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

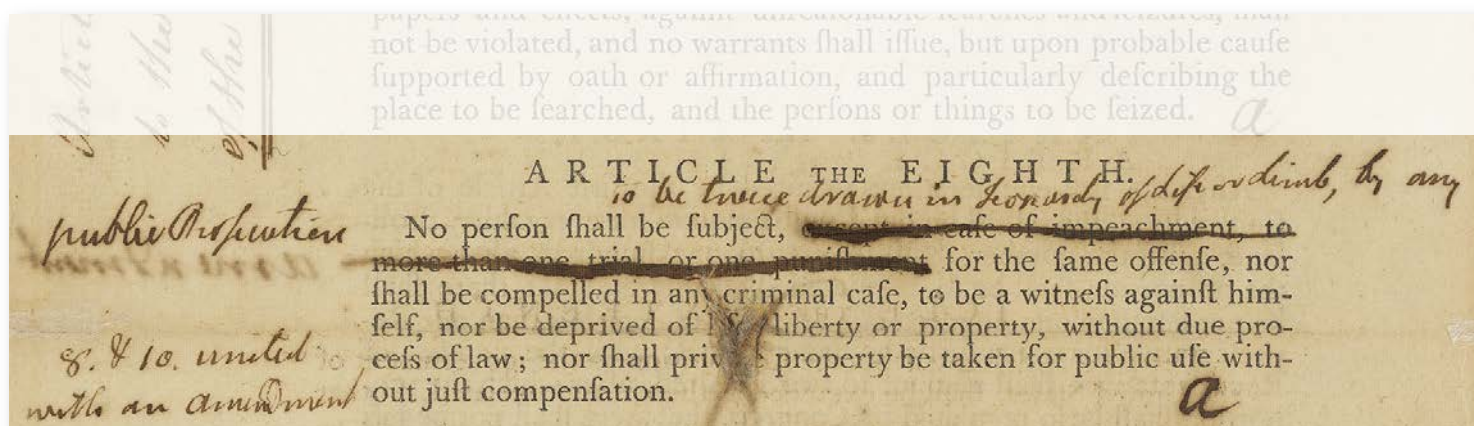
As Sent to the States for Ratification

As Ratified by the States

No person shall be subject, except in case of impeachment, to more than one trial, or one punishment, for the same offence, nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

*August 24, 1789*

The absence of partisan debate on this amendment reflected the consensus opinion that protection against self-incrimination was a fundamental right. Points raised in the House concerned only the appropriate degree of protection against being tried twice for the same offense.



# Go Inside the First Congress

## Amendments in Process

### House Article the Eighth

#### Self-incrimination

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

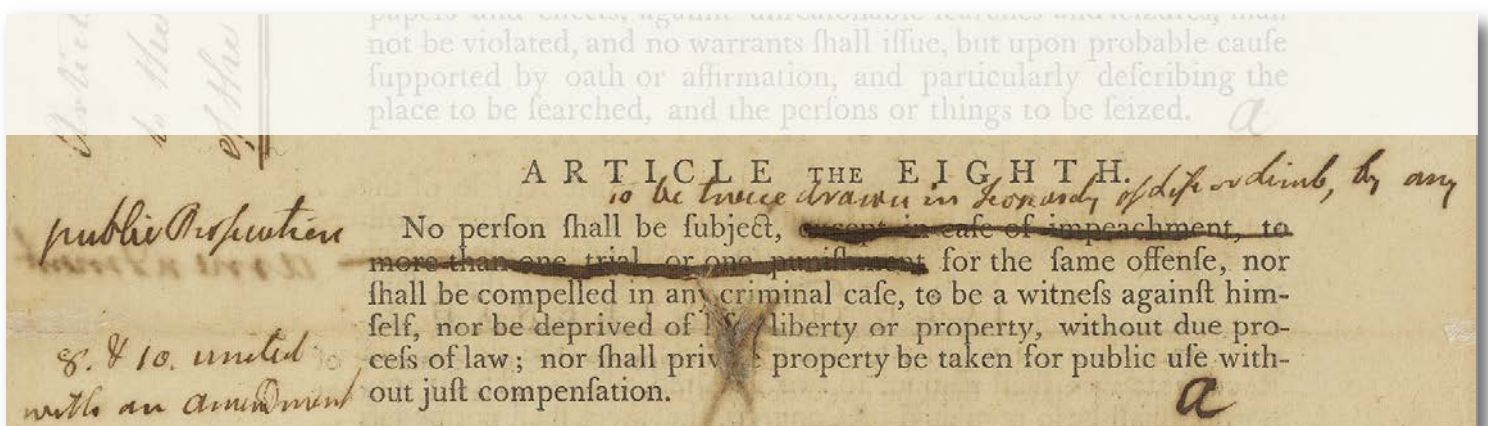
As Sent to the States for Ratification

As Ratified by the States

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.

*September 14, 1789*

The Senate combined two amendments proposed by the House—Articles the Eighth and the Tenth. By doing so, they created one amendment incorporating a range of due-process guarantees, including the right to grand jury proceedings, protection against self-incrimination, protection against double jeopardy, a ban on the seizing of property without due process, and protection against uncompensated seizure of private property for public use.





# Go Inside the First Congress

## Amendments in Process

### House Article the Eighth

#### Self-incrimination

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

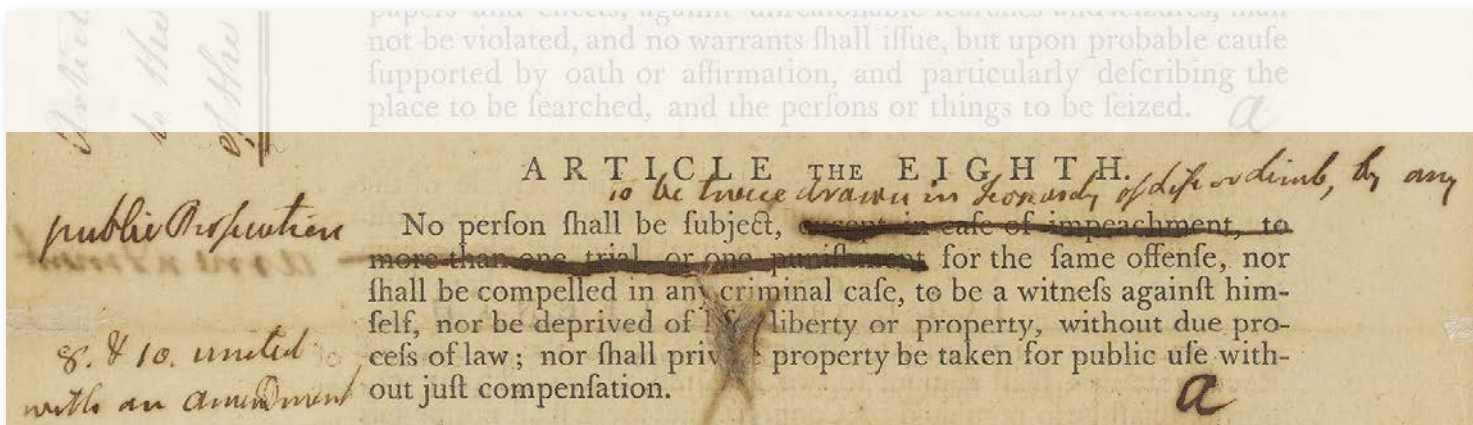


As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

This amendment was not considered by the Conference Committee since the House agreed to the proposal as combined and amended by the Senate on September 21, 1789.



# Go Inside the First Congress

## Amendments in Process

### House Article the Eighth

#### Self-incrimination

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

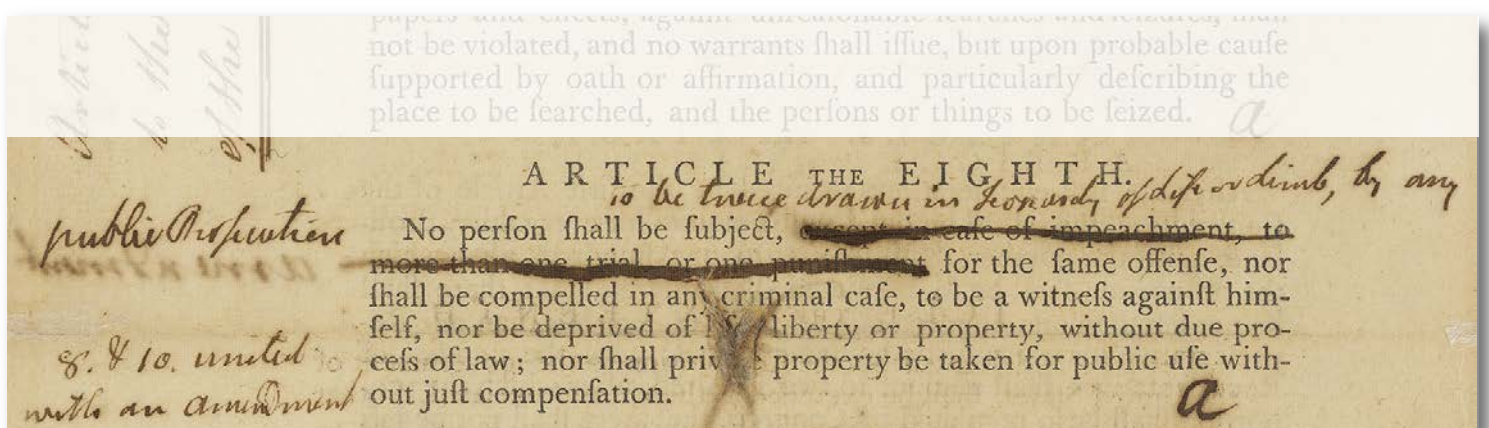
As Sent to the States  
for Ratification

As Ratified  
by the States

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

*October 2, 1789*

The amendment was sent to the states for ratification in this form.



# Go Inside the First Congress

## Amendments in Process

### House Article the Eighth

#### Self-incrimination

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

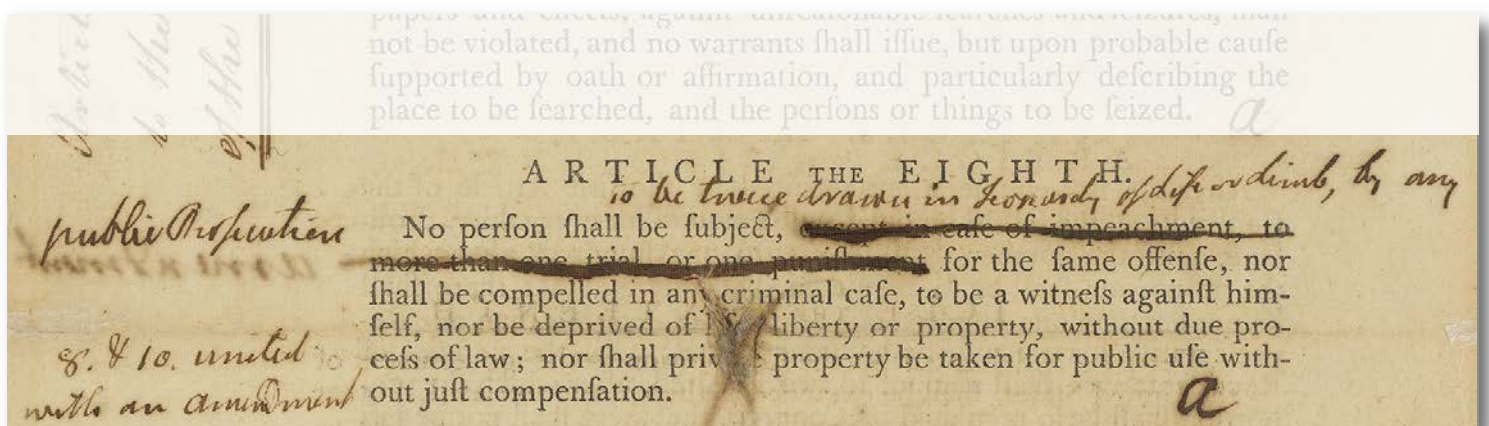
As Sent to the States  
for Ratification

As Ratified  
by the States

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.

*December 15, 1791*

Ratified by the states as the Fifth Amendment in the Bill of Rights.



## Go Inside the First Congress

### Amendments in Process

#### House Article the Ninth

Fair Trial

#### ARTICLE THE NINTH.

In all criminal profecutions, the accused fhall 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 witnesfes against him, to have compulfory procefs for obtaining witnesfes in his favor, and to have the affiftance of counfel for his defence. *a*

# Go Inside the First Congress

## Amendments in Process

### House Article the Ninth

#### Fair Trial

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

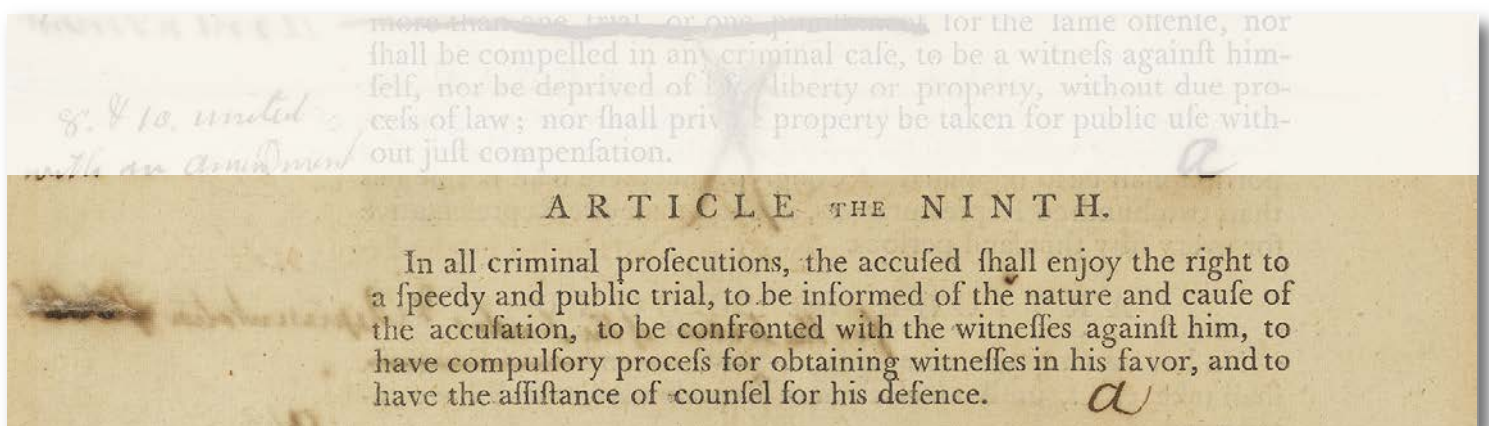
As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was proposed to protect the right to a fair trial, a traditional right of Englishmen and one that was protected in most state constitutions. Protecting individuals from arbitrary, capricious, and unfair charges by government or other individuals required that criminal charges must be precisely and unambiguously stated, public trials must be held promptly, and the accused must have a right to call and question witnesses.



# Go Inside the First Congress

## Amendments in Process

### House Article the Ninth

#### Fair Trial

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

In all capital and criminal prosecutions, a man hath a right to demand the cause and nature of his accusation, to be allowed counsel in his favor, and to a fair and speedy trial by an impartial Jury of his vicinage, without whose unanimous consent he cannot be found guilty, (except in the government of the land and naval forces) nor can he be compelled to give evidence against himself.

*Virginia Convention, June 27, 1788*

This proposal required that criminal cases be decided locally by those closest to the circumstances. Vicinity ("vicinage") was a special concern in a country the size of the United States where law and judicial practices differed from one place to another.

more than one trial, or one punishment, for the same offence, nor shall be compelled in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

#### ARTICLE THE NINTH.

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



# Go Inside the First Congress

## Amendments in Process

### House Article the Ninth

#### Fair Trial

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

*James Madison proposed that the following language be inserted into Article I, Section 9, of the Constitution between Clauses 3 and 4:*

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

*June 8, 1789*

Madison's proposal lacked the emphasis on local trials contained in the Virginia proposal, but was more explicit about the due-process guarantees during a trial.

*more than one trial, or one punishment, for the same offence, nor shall be compelled in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.*

#### ARTICLE THE NINTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Ninth

#### Fair Trial

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

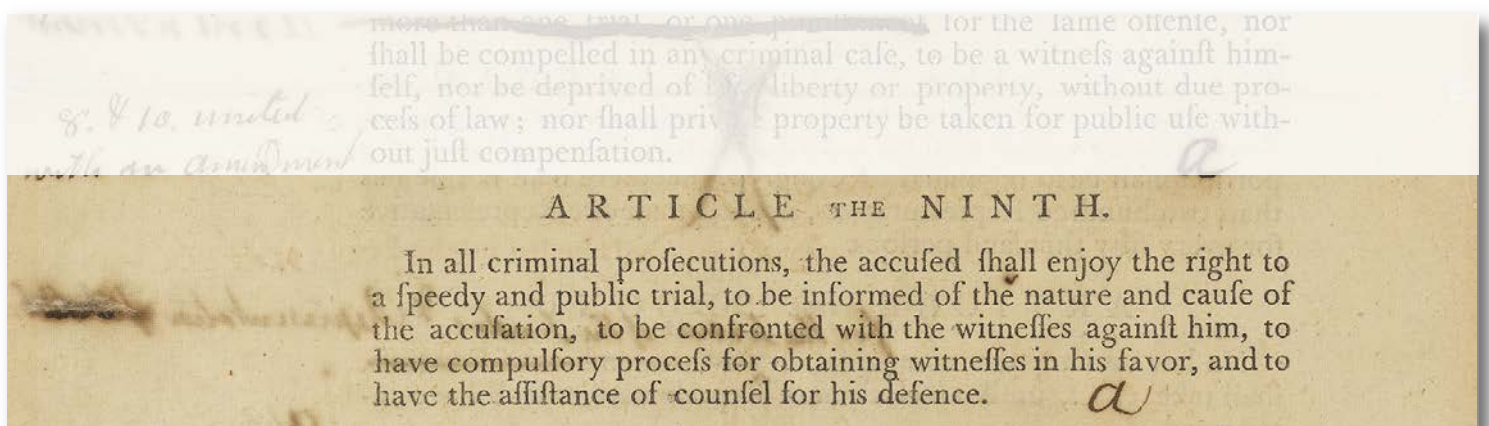
As Ratified  
by the States

*Article III, Section 2—Strike out the whole of the 3rd Clause, and insert:*

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

*July 28, 1789*

The Select Committee made minor clarifications in Madison's proposal, including changing the order of the words "cause" and "nature."



# Go Inside the First Congress

## Amendments in Process

### House Article the Ninth

#### Fair Trial

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

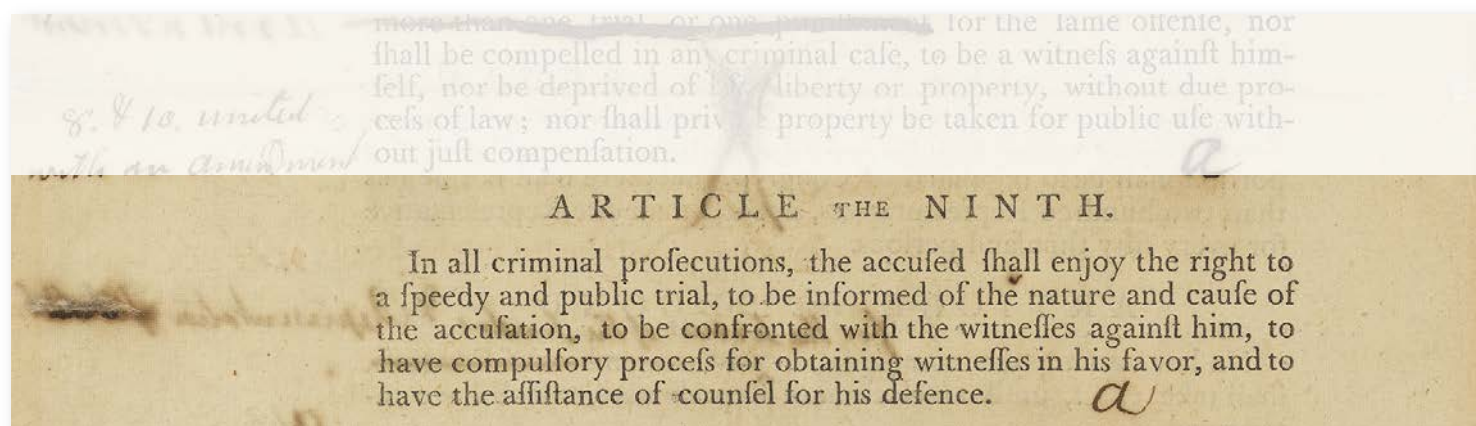
As Sent to the States for Ratification

As Ratified by the States

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 a compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

*August 24, 1789*

The House passed the amendment as it was proposed by the Select Committee. The lack of substantive debate reflected the traditional idea that trials should be decided locally, before a jury of a defendant's neighbors who were more likely to understand the relevant circumstances and give the defendant a fair hearing.



# Go Inside the First Congress

## Amendments in Process

### House Article the Ninth

#### Fair Trial

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

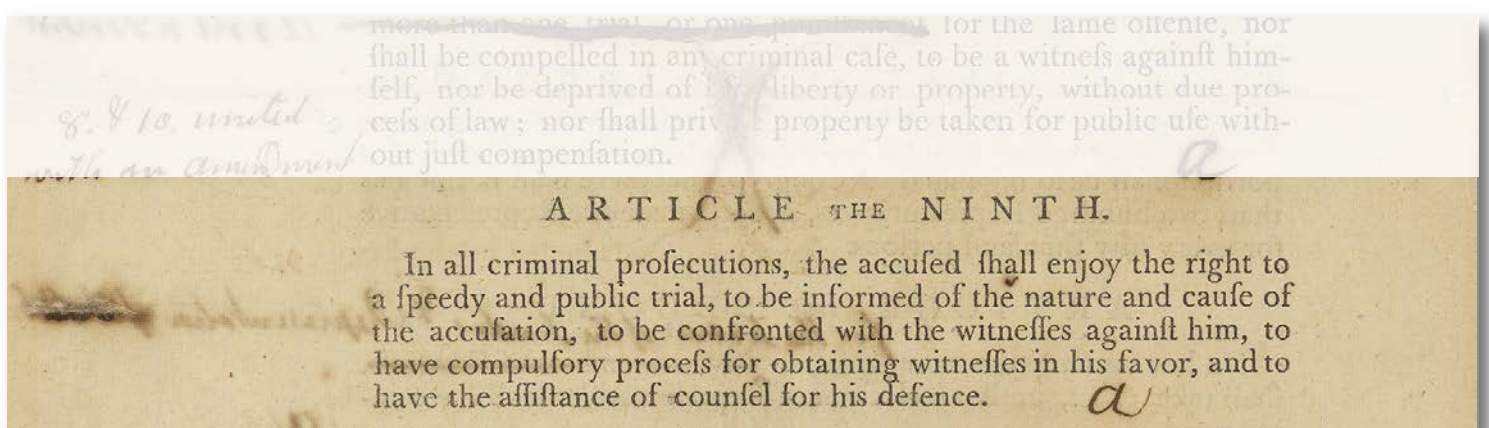
As Sent to the States for Ratification

As Ratified by the States

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 a compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

*September 24, 1789*

The Senate initially approved this amendment as it came from the House on September 14, but later agreed with a suggestion made by the House to consider further changes in a Conference Committee. The committee proposed additional changes to which the House and the Senate agreed.



# Go Inside the First Congress

## Amendments in Process

### House Article the Ninth

#### Fair Trial

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

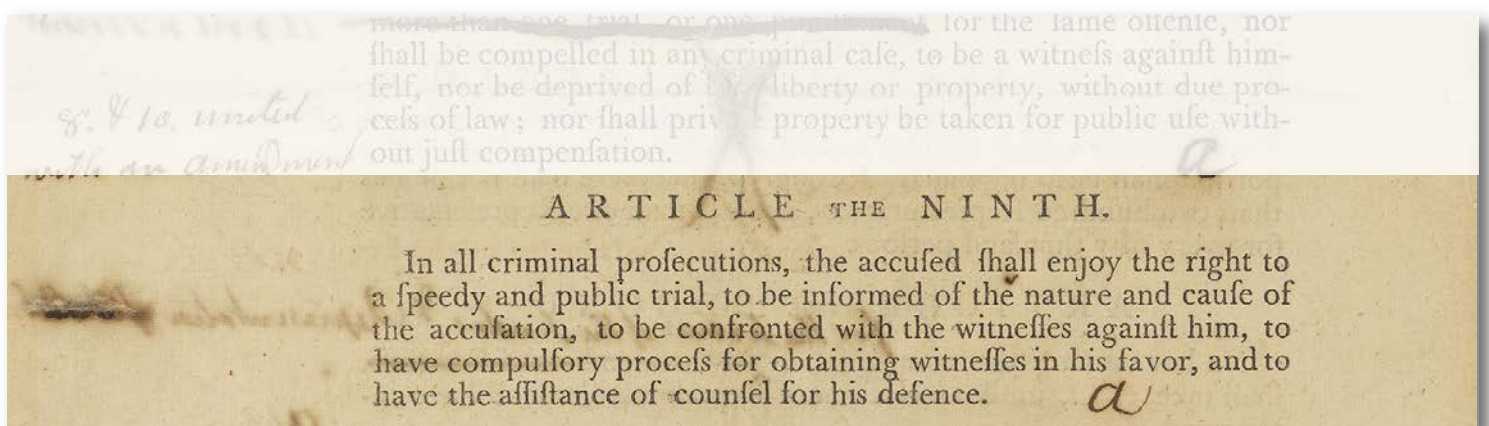
As Sent to the States for Ratification

As Ratified by the States

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

*September 24, 1789*

The Conference Committee added a specification that a trial be held in the district where the alleged crime had been committed. After the committee report, the House insisted on one additional change, adding the word "state" to ensure more completely that trials be held near the scene of the alleged crime. The Senate agreed to this last change as well.



# Go Inside the First Congress

## Amendments in Process

### House Article the Ninth

#### Fair Trial

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

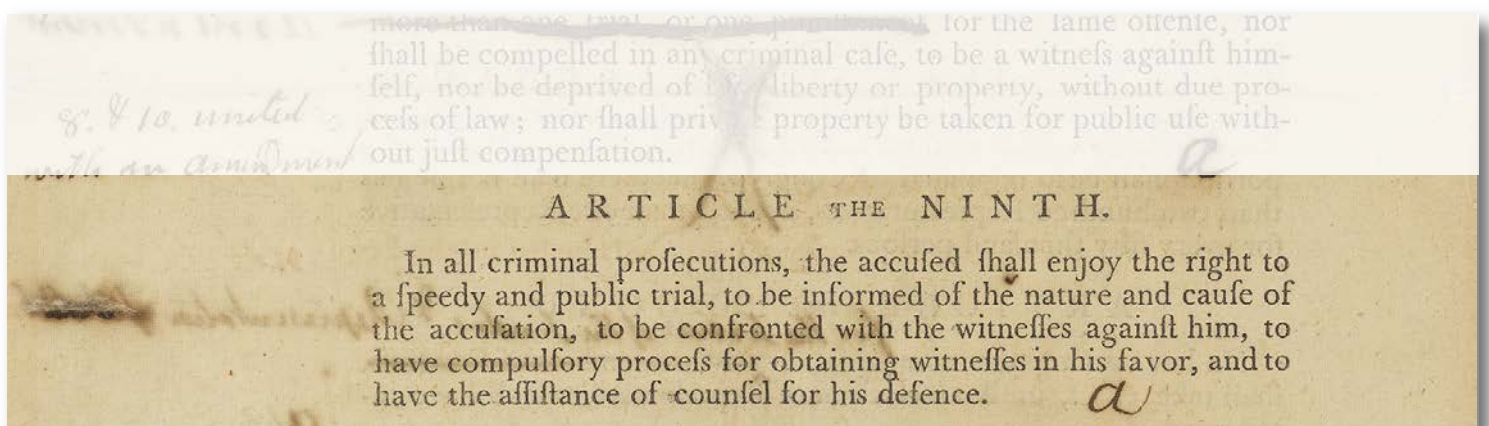
As Sent to the States for Ratification

As Ratified by the States

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

*October 2, 1789*

The amendment was sent to the states for ratification in this form.



# Go Inside the First Congress

## Amendments in Process

### House Article the Ninth

#### Fair Trial

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

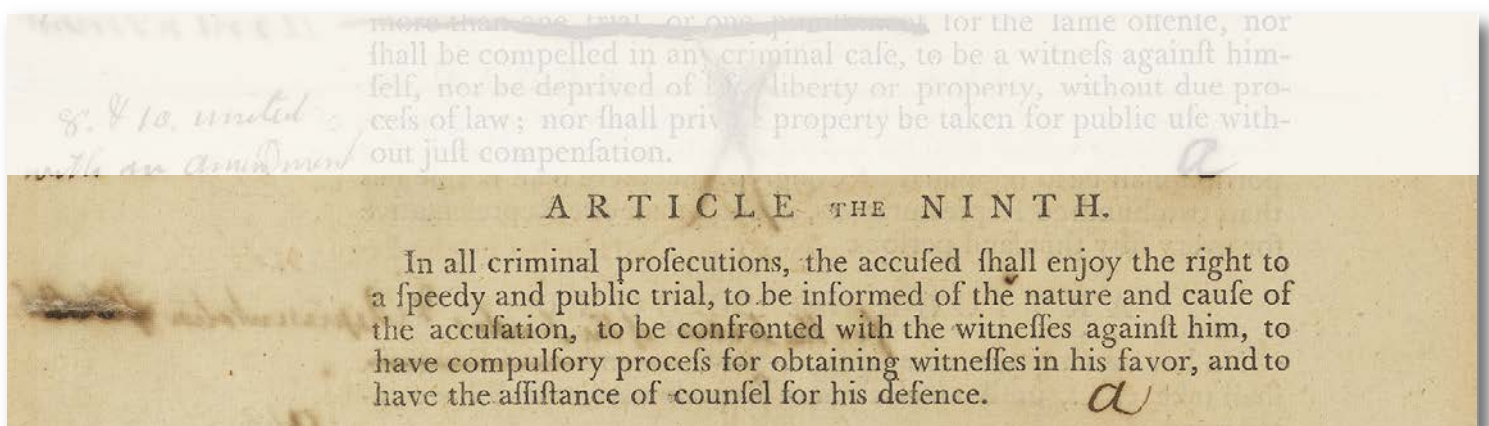
As Sent to the States  
for Ratification

As Ratified  
by the States

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

*December 15, 1791*

Ratified by the states as the Sixth Amendment in the Bill of Rights.



# Go Inside the First Congress

## Amendments in Process

### House Article the Tenth

#### Due Process

#### ARTICLE THE TENTH.

The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service in time of War or public danger) shall be by an Impartial Jury of the Vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or otherways infamous crime, unless on a presentment or indictment by a Grand Jury; but if a crime be committed in a place in the possession of an enemy, ~~the indictment~~ ~~and trial may by law be authorized in some other place within the same State.~~ ~~by~~ prevail, the indictment



# Go Inside the First Congress

## Amendments in Process

### House Article the Tenth

#### Due Process

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

This article was proposed to ensure due process in courts of law for serious crimes, one of the English legal traditions exported to the American colonies. It guaranteed that criminal charges had to emanate from local grand juries, individuals could not be tried twice for the same crime, the accused could not be forced to testify against himself, and other legal protections to ensure due process for all. Most of the states had similar protections in their constitutions.

#### ARTICLE THE TENTH.

The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service in time of War or public danger) shall be by an Impartial Jury of the Vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or otherways infamous crime, unless on a presentment or indictment by a Grand Jury; but if a crime be committed in a place in the possession of an enemy, or in a place where the military or naval laws may prevail, the indictment and trial may by law be authorized in some other place within the same State.

# Go Inside the First Congress

## Amendments in Process

### House Article the Tenth

#### Due Process

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

In all capital and criminal prosecutions, a man hath a right to demand the cause and nature of his accusation, to be allowed counsel in his favor, and to a fair and speedy trial by an impartial Jury of his vicinage, without whose unanimous consent he cannot be found guilty, (except in the government of the land and naval forces) nor can he be compelled to give evidence against himself.  
*Virginia Convention, June 27, 1788*

That ... a presentment or indictment by a Grand Jury ought to be observed as a necessary preliminary to the trial ... and all trials should be speedy, public, and by an impartial Jury of the County where the Crime was committed; and that no person can be found Guilty without the unanimous consent of such Jury.  
*New York Convention, July 26, 1788*

Two states proposed a constitutional protection for various due-process guarantees associated with trial by a jury.

#### ARTICLE THE TENTH.

The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service in time of War or public danger) shall be by an impartial Jury of the Vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or otherways infamous crime, unless on a presentment or indictment by a Grand Jury; but if a crime be committed in a place in the possession of an enemy, or in a place where a military or naval force may prevail, the indictment and trial may by law be authorized in some other place within the same State.

# Go Inside the First Congress

## Amendments in Process

### House Article the Tenth

#### Due Process

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

*James Madison proposed that the following language be inserted into Article III, Section 2, of the Constitution:*

The trial of all crimes (except in cases of impeachments, and cases arising in the land or naval forces, or the militia when on actual service, in time of war or public danger) shall be by an impartial jury of freeholders of the vicinage, with the requisite of unanimity for conviction, of the right of challenge, and other accustomed requisites of unanimity for conviction, of the right of challenge, and other accustomed requisites; and in all crimes punishable with loss of life or member, presentment of indictment by a grand jury, shall be an essential preliminary, provided that in cases of crimes committed within any county which may be in possession of an enemy, or in which a general insurrection may prevail, the trial may by law be authorized in some other county of the same state, as near as may be to the seat of the offense.

*June 8, 1789*

Madison included the rights contained in the state proposals as well as an ambiguous guarantee of "other accustomed requisites."

#### ARTICLE THE TENTH.

The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service in time of War or public danger) shall be by an impartial Jury of the Vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or otherways infamous crime, unless on a presentment or indictment by a Grand Jury; but if a crime be committed in a place in the possession of an enemy, or in which a general insurrection may prevail, the indictment and trial may by law be authorized in some other county within the same State.

# Go Inside the First Congress

## Amendments in Process

### House Article the Tenth

#### Due Process

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

*Article III, Section 2—Strike out the whole of the 3rd Clause, and insert:*

The trial of all cases (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service in time of War or public danger) shall be by an impartial jury of freeholders of the vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment by a Grand Jury; but if a crime be committed in a place in the possession of an enemy, or in which an insurrection may prevail, the indictment and trial may by law be authorized in some other place within the same State, and if it be committed in a place not within the State, the indictment and trial may be at such place or places as the law may direct.

*July 28, 1789*

The Select Committee expanded Madison's proposal by adding more explicit language about the requirement of a grand jury indictment preceding a trial for serious offenses and the possibility of changing the venue of a trial in the event of war or rebellion.

#### ARTICLE THE TENTH.

The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service in time of War or public danger) shall be by an impartial Jury of the Vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment by a Grand Jury; but if a crime be committed in a place in the possession of an enemy, or in which an insurrection may prevail, the indictment and trial may by law be authorized in some other place within the same State.

# Go Inside the First Congress

## Amendments in Process

### House Article the Tenth

#### Due Process

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service, in time of War or public danger) shall be by an impartial Jury of the Vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or other ways infamous, crime, unless on a presentment or indictment by a Grand Jury; but, if a crime be committed in a place in the possession of an enemy, or in which an insurrection may prevail, the indictment and trial may by law be authorized in some other place within the same State.

*August 24, 1789*

The House dropped the word "freeholders" from the Select Committee's description of the jury pool, making non-property owners eligible to serve. They also permitted the trial venue to be relocated within a state in case of conflict or emergency.

#### ARTICLE THE TENTH.

The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service in time of War or public danger) shall be by an impartial Jury of the Vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or other ways infamous crime, unless on a presentment or indictment by a Grand Jury; but if a crime be committed in a place in the possession of an enemy, or in which an insurrection may prevail, the indictment and trial may by law be authorized in some other place within the same State.

# Go Inside the First Congress

## Amendments in Process

### House Article the Tenth

#### Due Process

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

The Senate combined two amendments proposed by the House, Articles the Eighth and the Tenth. By doing so, they created one amendment covering a range of due-process guarantees—protection against self incrimination, the right to a grand jury hearing, and a speedy, public jury trial by an impartial local jury—and they inserted Madison’s protection against uncompensated seizure of private property.

#### ARTICLE THE TENTH.

The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service in time of War or public danger) shall be by an Impartial Jury of the Vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or otherways infamous crime, unless on a presentment or indictment by a Grand Jury; but if a crime be committed in a place in the possession of an enemy, the trial may by law be authorized in some other place within the same State.

# Go Inside the First Congress

## Amendments in Process

### House Article the Tenth

#### Due Process

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was deleted by the Senate, and elements of it were incorporated into Article the Eighth.

#### ARTICLE THE TENTH.

The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service in time of War or public danger) shall be by an Impartial Jury of the Vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or otherways infamous crime, unless on a presentment or indictment by a Grand Jury; but if a crime be committed in a place in the possession of an enemy, the trial may by law be authorized in some other place within the same State.

# Go Inside the First Congress

## Amendments in Process

### House Article the Tenth

#### Due Process

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was deleted by the Senate, and elements of it were incorporated into Article the Eighth.

#### ARTICLE THE TENTH.

The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service in time of War or public danger) shall be by an Impartial Jury of the Vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or otherways infamous crime, unless on a presentment or indictment by a Grand Jury; but if a crime be committed in a place in the possession of an enemy, the trial may by law be authorized in some other place within the same State.



# Go Inside the First Congress

## Amendments in Process

### House Article the Tenth

#### Due Process

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was deleted by the Senate, and elements of it were incorporated into Article the Eighth.

#### ARTICLE THE TENTH.

The trial of all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service in time of War or public danger) shall be by an Impartial Jury of the Vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or otherways infamous crime, unless on a presentment or indictment by a Grand Jury; but if a crime be committed in a place in the possession of an enemy, the trial may by law be authorized in some other place within the same State.

# Go Inside the First Congress

## Amendments in Process

### House Article the Eleventh

Trial by Jury

#### ARTICLE THE ELEVENTH.

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

*in any Court of the U.S.*

# Go Inside the First Congress

## Amendments in Process

### House Article the Eleventh

#### Trial by Jury

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment protects the right of trial by jury, a traditional right of Englishmen and one protected in state constitutions. During the colonial era, when sympathetic local juries acquitted fellow colonialists accused of evading British duties or taxes, British authorities created special courts to try and convict them. This amendment ensured that the new federal government protected the right to jury trials and made a distinction between the facts of a case, which were to be determined by juries, and the interpretation of law, which was the preserve of the courts.

[ 3 ]

10<sup>th</sup> and 11<sup>th</sup> in incorporated.

### ARTICLE THE ELEVENTH.

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

in any Court of the U.S.

a

# Go Inside the First Congress

## Amendments in Process

### House Article the Eleventh

#### Trial by Jury

Ideas Proposed by State Ratification Conventions

All Common Law Cases between Citizens of different States shall be commenced in the Common Law Courts of the respective States and no appeal shall be allowed to the Federal court in such Cases unless the sum or value of the thing in Controversy amount to three Thousand Dollars.

As Proposed by James Madison

As Proposed by the House Committee

*New Hampshire Convention, June 21, 1788*

As Passed by the House of Representatives

In all other cases to which the Judicial Power of the United States extends, and in which the Supreme Court of the United States has not original Jurisdiction, the Causes shall be heard, tried, and determined in some one of the State Courts, with the right of Appeal to the Supreme Court of the United States ....

As Approved or Amended by the Senate

*New York Convention, July 26, 1788*

As Reported by the Conference Committee

These proposals made a distinction between the jurisdiction of state and federal courts, emphasizing the role of state courts in trying local cases. This concern stemmed from the fear of the burden of legal costs that could fall on an average citizen if his case was tried in a distant venue. Conversely, it prevented people from using their wealth to arrange distant trial venues to achieve biased outcomes.

As Sent to the States for Ratification

As Ratified by the States

[ 3 ]

10<sup>th</sup> and 11<sup>th</sup> in incorporated.

#### ARTICLE THE ELEVENTH.

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

in any Court of the U.S.

a

# Go Inside the First Congress

## Amendments in Process

### House Article the Eleventh

#### Trial by Jury

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

*James Madison proposed that the following language be inserted into Article III, Section 2, of the Constitution:*

But no appeal to such court shall be allowed where the value in controversy shall not amount to \_\_\_ dollars: nor shall any fact triable by jury, according to the course of common law, be otherwise re-examinable than may consist with the principles of common law.

*June 8, 1789*

Madison achieved the result called for by the states by making the distinction that the facts were to be tried in local court and could not be re-examined on appeal. However, he left the monetary threshold for appeals of locally decided cases unspecified.

[ 3 ]

*10<sup>th</sup> and 11<sup>th</sup> in incorporated.*

#### ARTICLE THE ELEVENTH.

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

*in any Court of the U.S.*

*a*

# Go Inside the First Congress

## Amendments in Process

### House Article the Eleventh

#### Trial by Jury

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

*Article III, Section 2—Add to the second part:*

But no appeal to such court shall be allowed, where the value in controversy shall not amount to one thousand dollars; nor shall any fact, triable by a Jury according to the course of the common law, be otherwise re-examinable than according to the rules of common law.

*July 28, 1789*

The Select Committee modified Madison's proposal by specifying a one thousand-dollar threshold on cases eligible for appeal, and changed the phrase "according to the principles of common law," to a more precise "according to the rules of common law."

[ 3 ]

*10<sup>th</sup> and 11<sup>th</sup> in corrected.*

#### ARTICLE THE ELEVENTH.

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

*in any Court of the U.S.*

*a*

# Go Inside the First Congress

## Amendments in Process

### House Article the Eleventh

#### Trial by Jury

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

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.

*August 24, 1789*

In the House debate, James Madison (VA) acknowledged that he was advocating amendments likely to win public support for the Constitution and alleviate public concerns. He argued that there was “little danger that any court in the United States will admit an appeal where the matter in dispute does not amount to a thousand dollars, but as the possibility of such an event has excited in the minds of many citizens, the greatest apprehension that persons of opulence would carry a cause from the extremities of the union to the Supreme Court, and therefore prevent the due administration of justice, it ought to be guarded against.”

[ 3 ]

10<sup>th</sup> and 11<sup>th</sup> in comparison.

#### ARTICLE THE ELEVENTH.

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

in any Court of the U.S.

a

# Go Inside the First Congress

## Amendments in Process

### House Article the Eleventh

#### Trial by Jury

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

The Senate combined the provisions of the proposed amendment with House Article the Twelfth to create a combined article that guaranteed jury trials in civil cases and kept the examination of facts related to the case at the local level. The Senate then deleted this proposed amendment.

[ 3 ]

10<sup>th</sup> and 11<sup>th</sup> incorporated.

#### ARTICLE THE ELEVENTH.

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

in any Court of the U.S.

a



# Go Inside the First Congress

## Amendments in Process

### House Article the Eleventh

#### Trial by Jury

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was deleted by the Senate, and elements of it were incorporated into Article the Twelfth.

[ 3 ]

10<sup>th</sup> and 11<sup>th</sup> incorporated.

#### ARTICLE THE ELEVENTH.

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

in any Court of  
the U.S.

a

# Go Inside the First Congress

## Amendments in Process

### House Article the Eleventh

#### Trial by Jury

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

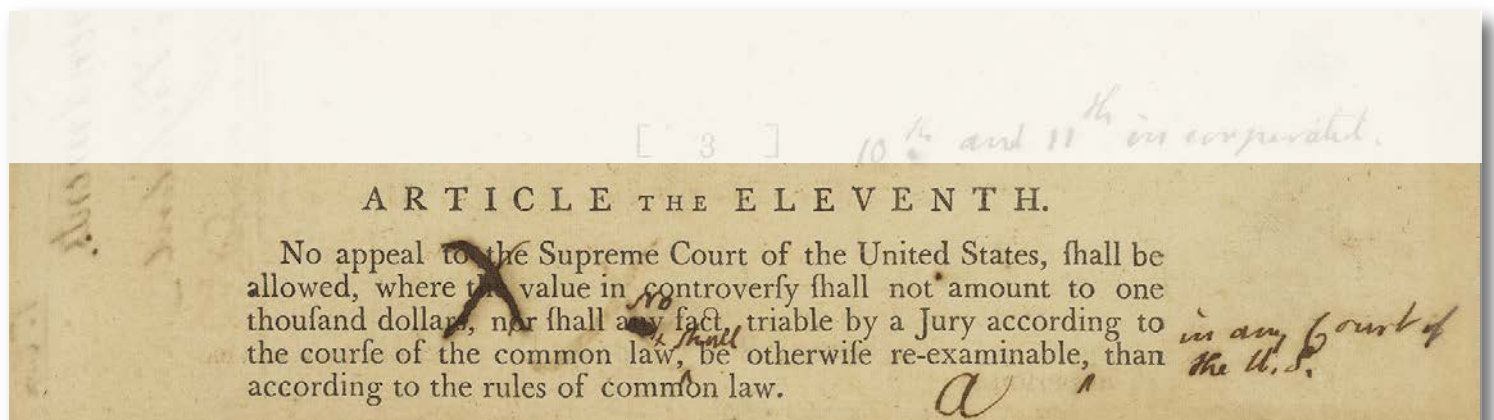
As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was deleted by the Senate, and elements of it were incorporated into Article the Twelfth.



# Go Inside the First Congress

## Amendments in Process

### House Article the Eleventh

#### Trial by Jury

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was deleted by the Senate, and elements of it were incorporated into Article the Twelfth.

[ 3 ]

10<sup>th</sup> and 11<sup>th</sup> incorporated.

#### ARTICLE THE ELEVENTH.

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

in any Court of  
the U.S.

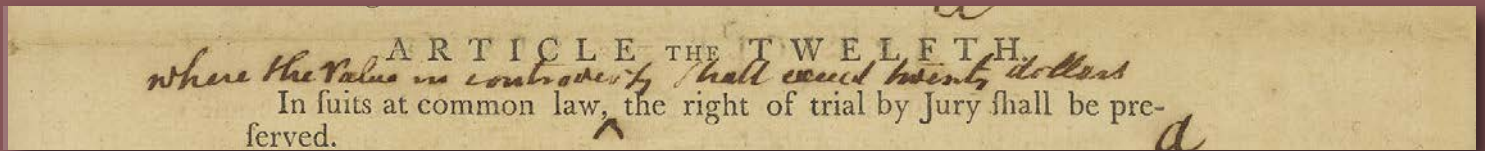
a

# Go Inside the First Congress

## Amendments in Process

### House Article the Twelfth

Jury in Civil Cases



# Go Inside the First Congress

## Amendments in Process

### House Article the Twelfth

#### Jury in Civil Cases

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was proposed to correct a perceived defect in the Constitution. Article III, Section 2 of the Constitution, guaranteed the right of jury trial to criminal defendants but said nothing about civil cases. This one-sentence amendment protected the right of trial by jury in civil cases.

#### ARTICLE THE ELEVENTH.

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

#### ARTICLE THE TWELFTH.

*where the value in controversy shall exceed twenty dollars*  
In suits at common law, the right of trial by Jury shall be preserved.

# Go Inside the First Congress

## Amendments in Process

### House Article the Twelfth

#### Jury in Civil Cases

Ideas Proposed by State  
Ratification Conventions

In civil actions between Citizens of different States every issue of fact arising in actions at common law shall be tried by a jury if the parties or either of them requests it.

*Massachusetts Convention, February 6, 1788*

As Proposed by  
James Madison

As Proposed by the  
House Committee

In civil actions between Citizens of different States every issue of fact arising in actions at common law shall be tried by jury, if the parties, or either of them request it.

*New Hampshire Convention, June 21, 1788*

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

That in controversies respecting property, and in suits between man and man, the ancient trial by jury is one of the greatest Securities to the rights of the people, and ought to remain sacred and inviolable.

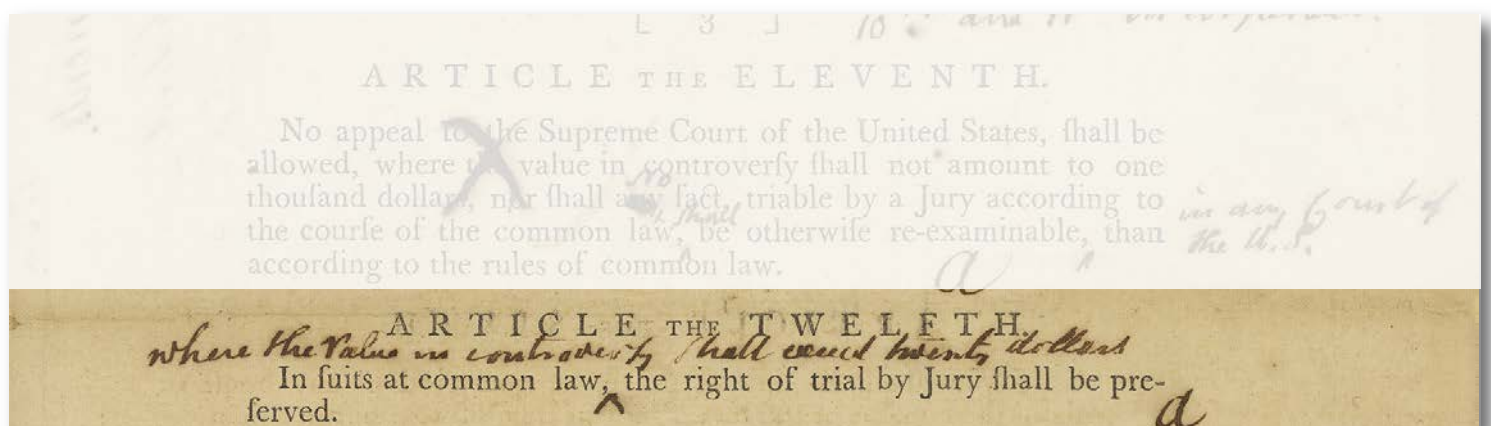
As Reported by the  
Conference Committee

*Virginia Convention, June 27, 1788*

As Sent to the States  
for Ratification

Article III, Section 2 of the Constitution guarantees the right to a jury trial in criminal cases. The three state conventions called for the same guarantee in civil suits.

As Ratified  
by the States



# Go Inside the First Congress

## Amendments in Process

### House Article the Twelfth

#### Jury in Civil Cases

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

*James Madison proposed that the following language be inserted into Article III, Section 2, Clause 3 of the Constitution:*

In suits at common law between man and man, the trial by jury as one of the best securities to the rights of the people, ought to remain inviolate.

*June 8, 1789*

Madison proposed the guarantee of a jury trial for civil suits in words that express it as an ideal that ought to be preserved rather than a mandate that will be enforced.

#### ARTICLE THE ELEVENTH.

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

#### ARTICLE THE TWELFTH.

*where the value in controversy shall exceed twenty dollars*  
In suits at common law, the right of trial by Jury shall be preserved.

# Go Inside the First Congress

## Amendments in Process

### House Article the Twelfth

#### Jury in Civil Cases

Ideas Proposed by State  
Ratification Conventions

*Article III, Section 2—Strike out the whole third paragraph and insert:*

As Proposed by  
James Madison

In suits at common law the right of trial by Jury shall be preserved.

*July 28, 1789*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

The Select Committee shortened Madison's proposal and made it a specific mandate.

As Sent to the States  
for Ratification

As Ratified  
by the States

#### ARTICLE THE ELEVENTH.

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

#### ARTICLE THE TWELFTH.

*where the value in controversy shall exceed twenty dollars*  
In suits at common law, the right of trial by Jury shall be preserved.



# Go Inside the First Congress

## Amendments in Process

### House Article the Twelfth

#### Jury in Civil Cases

Ideas Proposed by State Ratification Conventions

In suits at common law, the right of trial by jury shall be preserved.

As Proposed by James Madison

*August 24, 1789*

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

The House passed the amendment in the same form as proposed by the Select Committee. The absence of debate reflects the consensus that defendants in civil suits deserve the right to a jury trial constitutionally guaranteed to criminal defendants.

As Sent to the States for Ratification

As Ratified by the States

#### ARTICLE THE ELEVENTH.

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

#### ARTICLE THE TWELFTH.

*where the value in controversy shall exceed twenty dollars*  
 In suits at common law, the right of trial by Jury shall be preserved.

# Go Inside the First Congress

## Amendments in Process

### House Article the Twelfth

#### Jury in Civil Cases

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

*And, on motion to amend this article, to read as follows:*

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

*September 14, 1789*

The Senate incorporated the provisions of the proposed House Article the Eleventh to create a combined article that guaranteed jury trials in civil cases and kept the examination of facts related to cases at the local level. The Senate then eliminated House Article the Eleventh and moved this one forward.

#### ARTICLE THE ELEVENTH.

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

#### ARTICLE THE TWELFTH.

*where the value in controversy shall exceed twenty dollars*  
In suits at common law, the right of trial by Jury shall be preserved.

# Go Inside the First Congress

## Amendments in Process

### House Article the Twelfth

#### Jury in Civil Cases

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This proposed amendment was not considered by the Conference Committee since the House agreed to the Senate version on September 21, 1789.

#### ARTICLE THE ELEVENTH.

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

#### ARTICLE THE TWELFTH.

*where the value in controversy shall exceed twenty dollars*  
In suits at common law, the right of trial by Jury shall be preserved.

# Go Inside the First Congress

## Amendments in Process

### House Article the Twelfth

#### Jury in Civil Cases

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

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.

*October 2, 1789*

The amendment was sent to the states for ratification in this form.

#### ARTICLE THE ELEVENTH.

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

#### ARTICLE THE TWELFTH.

*where the value in controversy shall exceed twenty dollars*  
In suits at common law, the right of trial by Jury shall be preserved.

# Go Inside the First Congress

## Amendments in Process

### House Article the Twelfth

#### Jury in Civil Cases

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

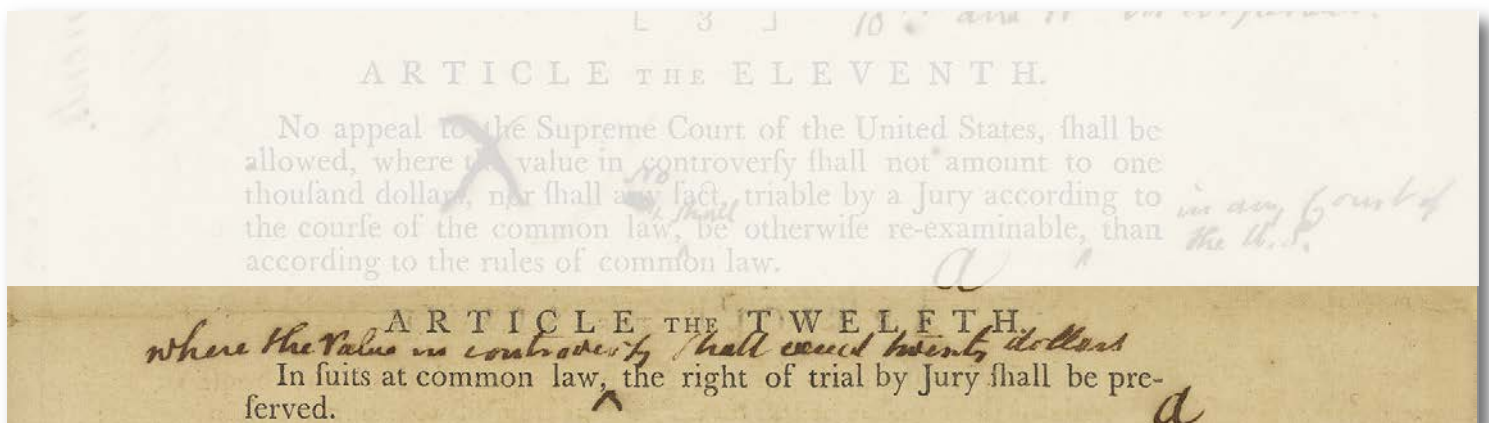
As Sent to the States  
for Ratification

As Ratified  
by the States

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.

*December 15, 1791*

Ratified by the states as the Seventh Amendment in the Bill of Rights.





# Go Inside the First Congress

## Amendments in Process

### House Article the Thirteenth

Cruel and Unusual Punishment

ARTICLE THE THIRTEENTH.  
Exceffive bail fhall not be required, nor exceffive fines impofed,  
nor cruel and unufual punishments inflicted.

*a*

# Go Inside the First Congress

## Amendments in Process

### House Article the Thirteenth

#### Cruel and Unusual Punishment

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

This amendment to prohibit excessive bail, fines, and cruel and unusual punishment was a part of the inherited rights of Englishmen. It was first expressed in the English Bill of Rights in 1689, was later included in the Virginia Declaration of Rights of 1776, and appeared in most state constitutions.

allowed, where the value in controversy shall not amount to one thousand dollars, nor shall any fact, triable by a Jury according to the course of the common law, be otherwise re-examinable, than according to the rules of common law.

ARTICLE THE TWELFTH.  
*where the value in controversy shall exceed twenty dollars*  
 In suits at common law, the right of trial by Jury shall be preserved.

ARTICLE THE THIRTEENTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Thirteenth

#### Cruel and Unusual Punishment

Ideas Proposed by State Ratification Conventions

That excessive Bail ought not to be required; nor excessive Fines imposed; nor Cruel or unusual Punishments inflicted.

*Virginia Convention, June 27, 1788*

As Proposed by James Madison

As Proposed by the House Committee

That excessive Bail ought not to be required; nor excessive Fines imposed; nor Cruel or unusual Punishments inflicted.

*New York Convention, July 26, 1788*

As Passed by the House of Representatives

As Approved or Amended by the Senate

Both states used the same words when proposing this amendment, reflecting a widely held belief in the importance of protecting these rights.

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

allowed, where the value in controversy shall not amount to one thousand dollars, nor shall any fact, triable by a Jury according to the course of the common law, be otherwise re-examinable, than according to the rules of common law.

ARTICLE THE TWELFTH.  
*where the value in controversy shall exceed twenty dollars*  
 In suits at common law, the right of trial by Jury shall be preserved.

ARTICLE THE THIRTEENTH.

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



# Go Inside the First Congress

## Amendments in Process

### House Article the Thirteenth

#### Cruel and Unusual Punishment

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

*James Madison proposed that the following language be inserted into Article I, Section 9, of the Constitution between Clauses 3 and 4:*

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

*June 8, 1789*

Madison, who had participated in the Virginia Convention, proposed this amendment in the same form advocated by both state conventions.

allowed, where the value in controversy shall not amount to one thousand dollars, nor shall any fact, triable by a Jury according to the course of the common law, be otherwise re-examinable, than according to the rules of common law.

ARTICLE THE TWELFTH.  
In suits at common law, the right of trial by Jury shall be preserved.

ARTICLE THE THIRTEENTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Thirteenth

#### Cruel and Unusual Punishment

Ideas Proposed by State  
Ratification Conventions

*Article I, Section 9—Between Clauses 2 and 3 insert:*

As Proposed by  
James Madison

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

*July 28, 1789*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

The Select Committee kept the wording of the amendment as proposed by the state conventions and Madison.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

allowed, where the value in controversy shall not amount to one thousand dollars, nor shall any fact, triable by a Jury according to the course of the common law, be otherwise re-examinable, than according to the rules of common law.

ARTICLE THE TWELFTH.  
In suits at common law, the right of trial by Jury shall be preserved.

ARTICLE THE THIRTEENTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Thirteenth

#### Cruel and Unusual Punishment

Ideas Proposed by State Ratification Conventions

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

As Proposed by James Madison

*August 24, 1789*

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

The House passed the amendment as the Select Committee proposed it. The only debate was over the question of whether it was needed. Federalist Samuel Livermore (NH), for instance, argued that the question of bail and punishment should be left to the courts to decide.

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

allowed, where the value in controversy shall not amount to one thousand dollars, nor shall any fact, triable by a Jury according to the course of the common law, be otherwise re-examinable, than according to the rules of common law.

ARTICLE THE TWELFTH.  
*where the value in controversy shall exceed twenty dollars*  
 In suits at common law, the right of trial by Jury shall be preserved.

ARTICLE THE THIRTEENTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Thirteenth

#### Cruel and Unusual Punishment

Ideas Proposed by State  
Ratification Conventions

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

As Proposed by  
James Madison

*September 7, 1789*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

The Senate accepted the House version of the  
amendment without debate.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

allowed, where the value in controversy shall not amount to one  
thousand dollars, nor shall any fact, triable by a Jury according to  
the course of the common law, be otherwise re-examinable, than  
according to the rules of common law.

ARTICLE THE TWELFTH.  
In suits at common law, the right of trial by Jury shall be pre-  
served.

ARTICLE THE THIRTEENTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Thirteenth

#### Cruel and Unusual Punishment

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was not considered by the Conference Committee since the House and the Senate both passed it in the same form.

allowed, where the value in controversy shall not amount to one thousand dollars, nor shall any fact, triable by a Jury according to the course of the common law, be otherwise re-examinable, than according to the rules of common law.

ARTICLE THE TWELFTH.  
In suits at common law, the right of trial by Jury shall be preserved.

ARTICLE THE THIRTEENTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Thirteenth

#### Cruel and Unusual Punishment

Ideas Proposed by State  
Ratification Conventions

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

As Proposed by  
James Madison

*October 2, 1789*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

The amendment was sent to the states for ratification in  
this form.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

allowed, where the value in controversy shall not amount to one  
thousand dollars, nor shall any fact, triable by a Jury according to  
the course of the common law, be otherwise re-examinable, than  
according to the rules of common law.

ARTICLE THE TWELFTH.  
In suits at common law, the right of trial by Jury shall be pre-  
served.

ARTICLE THE THIRTEENTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Thirteenth

#### Cruel and Unusual Punishment

Ideas Proposed by State  
Ratification Conventions

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

As Proposed by  
James Madison

*December 15, 1791*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

Ratified by the states as the Eighth Amendment in the Bill  
of Rights.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

allowed, where the value in controversy shall not amount to one  
thousand dollars, nor shall any fact, triable by a Jury according to  
the course of the common law, be otherwise re-examinable, than  
according to the rules of common law.

ARTICLE THE TWELFTH.  
In suits at common law, the right of trial by Jury shall be pre-  
served.

ARTICLE THE THIRTEENTH.

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



# Go Inside the First Congress

## Amendments in Process

### House Article the Fourteenth

Federal Protection of Fundamental Rights

ARTICLE THE FOURTEENTH.

No State shall infringe the right of trial by Jury in criminal cafes,  
nor the rights of conscience, nor the freedom of speech, or of the  
prefs.

*dele*



# Go Inside the First Congress

## Amendments in Process

### House Article the Fourteenth

#### Federal Protection of Fundamental Rights

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was unique as it was proposed solely by James Madison and had not been recommended by any of the state ratification conventions. Madison also considered it the "most valuable" of all the amendments proposed in the First Congress since it would make both the federal and state governments responsible for protecting the fundamental rights of Americans.

ARTICLE THE TWELFTH  
*where the value in controversy shall exceed twenty dollars*  
In suits at common law, the right of trial by jury shall be preserved.

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

ARTICLE THE FOURTEENTH.  
No State shall infringe the right of trial by jury in criminal cases, nor the rights of conscience, nor the freedom of speech, or of the press.

# Go Inside the First Congress

## Amendments in Process

### House Article the Fourteenth

#### Federal Protection of Fundamental Rights

▶ Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

No state convention proposed this amendment.

ARTICLE THE TWELFTH  
*where the value in controversy shall exceed twenty dollars*  
 In suits at common law, the right of trial by jury shall be preserved.

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

ARTICLE THE FOURTEENTH.  
 No State shall infringe the right of trial by jury in criminal cases, nor the rights of conscience, nor the freedom of speech, or of the press.

# Go Inside the First Congress

## Amendments in Process

### House Article the Fourteenth

#### Federal Protection of Fundamental Rights

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

*James Madison proposed that the following language be inserted into Article I, Section 10, of the Constitution:*

No State shall violate the equal rights of conscience, or the freedom of the press, or the trial by jury in criminal cases.

*June 8, 1789*

This proposal by James Madison would make the rights of conscience, free press, and trial by jury federal rights for all citizens.

ARTICLE THE TWELFTH  
*where the value in controversy shall exceed twenty dollars*  
In suits at common law, the right of trial by jury shall be preserved.

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

ARTICLE THE FOURTEENTH.  
No State shall infringe the right of trial by jury in criminal cases, nor the rights of conscience, nor the freedom of speech, or of the press.

# Go Inside the First Congress

## Amendments in Process

### House Article the Fourteenth

#### Federal Protection of Fundamental Rights

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

*Article I, Section 10—Between the 1st and 2nd Clause insert:  
No State shall infringe the equal rights of conscience, nor the  
freedom of speech, or of the press, nor of the right of trial by jury  
in criminal cases.*

*July 28, 1789*

The Select Committee added speech to the list of  
protected actions.

ARTICLE THE TWELFTH  
*where the value in controversy shall exceed twenty dollars*  
In suits at common law, the right of trial by jury shall be pre-  
served.

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

ARTICLE THE FOURTEENTH.  
No State shall infringe the right of trial by jury in criminal cases,  
nor the rights of conscience, nor the freedom of speech, or of the  
press.

# Go Inside the First Congress

## Amendments in Process

### House Article the Fourteenth

#### Federal Protection of Fundamental Rights

Ideas Proposed by State Ratification Conventions

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.

As Proposed by James Madison

*August 24, 1789*

As Proposed by the House Committee

The House rearranged the order of the clauses in this amendment, moving the federal protection of jury trials to the head of the list. James Madison (VA) called this the most valuable amendment, as it reflected his concern that the greatest danger to civil liberties stemmed from the abuse of democracy by majorities in states that disregarded the rights of minorities. The assertion of federal review of state law triggered hostile debate in the House. Leading Anti-Federalist Thomas Tudor Tucker (SC) argued, "It will be much better, I apprehend, to leave the state governments to themselves, and not to interfere with them more than we already do, and that is thought by many to be rather too much; I therefore move, sir, to strike out these words." Madison countered by asserting, "If there was any reason to restrain the government of the United States from infringing upon the essential rights, it was equally necessary that they should be secured against the state governments."

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

ARTICLE THE TWELFTH  
*where the value in controversy shall exceed twenty dollars*  
 In suits at common law, the right of trial by jury shall be preserved.

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

ARTICLE THE FOURTEENTH.  
 No State shall infringe the right of trial by jury in criminal cases, nor the rights of conscience, nor the freedom of speech, or of the press.

# Go Inside the First Congress

## Amendments in Process

### House Article the Fourteenth

#### Federal Protection of Fundamental Rights

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

Madison's proposed amendment was defeated in the Senate. In the absence of recorded debate, it is impossible to know precisely why, but it is logical to conclude that, as representatives of the states, the senators would oppose an amendment granting the federal government the power to overrule acts of the state legislatures.

ARTICLE THE TWELFTH  
*where the value in controversy shall exceed twenty dollars*  
In suits at common law, the right of trial by jury shall be preserved.

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

ARTICLE THE FOURTEENTH.  
No State shall infringe the right of trial by jury in criminal cases, nor the rights of conscience, nor the freedom of speech, or of the press.

# Go Inside the First Congress

## Amendments in Process

### House Article the Fourteenth

#### Federal Protection of Fundamental Rights

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was not considered by the Conference Committee because it was defeated in the Senate.

ARTICLE THE TWELFTH  
*where the value in controversy shall exceed twenty dollars*  
In suits at common law, the right of trial by jury shall be preserved.

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

ARTICLE THE FOURTEENTH.  
No State shall infringe the right of trial by jury in criminal cases, nor the rights of conscience, nor the freedom of speech, or of the press.

# Go Inside the First Congress

## Amendments in Process

### House Article the Fourteenth

#### Federal Protection of Fundamental Rights

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This article was never sent to the states for ratification.

ARTICLE THE TWELFTH  
*where the value in controversy shall exceed twenty dollars*  
In suits at common law, the right of trial by jury shall be pre-  
served.

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

ARTICLE THE FOURTEENTH.  
No State shall infringe the right of trial by jury in criminal cases,  
nor the rights of conscience, nor the freedom of speech, or of the  
press.



# Go Inside the First Congress

## Amendments in Process

### House Article the Fourteenth

#### Federal Protection of Fundamental Rights

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This article was never sent to the states for ratification.

The Fourteenth Amendment, ratified in 1868, granted the federal government the authority to guarantee due process and equal protection of the law to individuals in every state.

ARTICLE THE TWELFTH  
*where the value in controversy shall exceed twenty dollars*  
In suits at common law, the right of trial by jury shall be preserved.

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

ARTICLE THE FOURTEENTH.  
No State shall infringe the right of trial by jury in criminal cases, nor the rights of conscience, nor the freedom of speech, or of the press.



# Go Inside the First Congress

## Amendments in Process

### House Article the Fifteenth

Rights Retained by the People

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

*a*

# Go Inside the First Congress

## Amendments in Process

### House Article the Fifteenth

#### Rights Retained by the People

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment to protect the rights of the people addressed a concern that the enumeration or listing of specific rights in the Constitution and the other proposed amendments might be misconstrued to imply that *only* these enumerated rights were protected. Natural law philosophy at the time was based on the belief that the people only surrendered some of their rights to form governments, leaving the total store of retained rights unstated and untouched.

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

#### ARTICLE THE FOURTEENTH.

No State shall infringe the right of trial by jury in criminal cases,  
nor the right of conscience, nor the freedom of speech, or of the  
press. *del*

#### ARTICLE THE FIFTEENTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Fifteenth

#### Rights Retained by the People

▶ Ideas Proposed by State Ratification Conventions

There are certain natural rights of which men, when they form a social compact cannot deprive or divest their posterity, among which are the enjoyment of life and liberty, with the means of acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.

As Proposed by James Madison

*Virginia Convention, June 27, 1789*

As Proposed by the House Committee

As Passed by the House of Representatives

That the Powers of Government may be reassumed by the People, whensoever it shall become necessary to their Happiness; that every Power, Jurisdiction and Right, which is not by the said Constitution clearly delegated to the Congress of the United States, or to the departments of the Government thereof, remains to the People of the several States or to their respective State Governments to whom they may have granted the same....

As Approved or Amended by the Senate

*New York Convention, July 26, 1788*

As Reported by the Conference Committee

As Sent to the States for Ratification

These proposals argued that putting certain guarantees of individual rights on paper did not deny a larger body of unwritten rights.

As Ratified by the States

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

#### ARTICLE THE FOURTEENTH.

No State shall infringe the right of trial by jury in criminal cases, nor the right of conscience, nor the freedom of speech, or of the press. *del*

#### ARTICLE THE FIFTEENTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Fifteenth

#### Rights Retained by the People

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

*James Madison proposed that the following language be inserted into Article I, Section 9, of the Constitution between Clauses 3 and 4:*

The exceptions here or elsewhere in the Constitution, made in favor of particular rights, shall not be so construed as to diminish the just importance of other rights retained by the people, or as to enlarge the powers delegated by the Constitution; but either as actual limitations of such powers, or as inserted merely for greater caution.

*June 8, 1789*

This proposed amendment stated the principle that listing certain rights did not define the total body of rights possessed by the people. Additional rights of equal importance could be unlisted. Nor did that listing mean that government could expand its powers.

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

#### ARTICLE THE FOURTEENTH.

No State shall infringe the right of trial by jury in criminal cases,  
nor the right of conscience, nor the freedom of speech, or of the  
press. *del*

#### ARTICLE THE FIFTEENTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Fifteenth

#### Rights Retained by the People

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

*Article I, Section 9—Between Clauses 2 and 3 insert:*

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

*July 28, 1789*

The Committee of Eleven shortened Madison's proposal and focused it on rights alone.

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

#### ARTICLE THE FOURTEENTH.

No State shall infringe the right of trial by jury in criminal cases,  
nor the right of conscience, nor the freedom of speech, or of the  
press. *del*

#### ARTICLE THE FIFTEENTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Fifteenth

#### Rights Retained by the People

Ideas Proposed by State  
Ratification Conventions

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

As Proposed by  
James Madison

*August 24, 1789*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

The House passed this amendment essentially as proposed by the Select Committee.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

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

#### ARTICLE THE FOURTEENTH.

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

#### ARTICLE THE FIFTEENTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Fifteenth

#### Rights Retained by the People

Ideas Proposed by State  
Ratification Conventions

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

*September 7, 1789*

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

The Senate adopted this amendment as passed by the House.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

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

#### ARTICLE THE FOURTEENTH.

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

#### ARTICLE THE FIFTEENTH.

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



# Go Inside the First Congress

## Amendments in Process

### House Article the Fifteenth

#### Rights Retained by the People

Ideas Proposed by State  
Ratification Conventions

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

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

Passed by both bodies, the amendment was not discussed in the Conference Committee.

As Sent to the States  
for Ratification

As Ratified  
by the States

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

#### ARTICLE THE FOURTEENTH.

No State shall infringe the right of trial by jury in criminal cases,  
nor the right of conscience, nor the freedom of speech, or of the  
press. *del*

#### ARTICLE THE FIFTEENTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Fifteenth

#### Rights Retained by the People

Ideas Proposed by State  
Ratification Conventions

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

*October 2, 1789*

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

The amendment was sent to the states for ratification in this form.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

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

#### ARTICLE THE FOURTEENTH.

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

#### ARTICLE THE FIFTEENTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Fifteenth

#### Rights Retained by the People

Ideas Proposed by State  
Ratification Conventions

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

As Proposed by  
James Madison

*December 15, 1791*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

Ratified by the states as the Ninth Amendment in the Bill of Rights.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

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

#### ARTICLE THE FOURTEENTH.

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

#### ARTICLE THE FIFTEENTH.

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



# Go Inside the First Congress

## Amendments in Process

### House Article the Sixteenth

Separation and Distribution of Powers

ARTICLE THE SIXTEENTH.

The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

*dele  
not a*

# Go Inside the First Congress

## Amendments in Process

### House Article the Sixteenth

#### Separation and Distribution of Powers

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This proposed amendment stated that the powers delegated by the Constitution would be exercised only by the designated branch, underscoring that the federal government was not a single or uniform institution, but a government of three separate branches. The separation and distribution of powers was intended to prevent a monarchical or autocratic form of government dangerous to liberty. A similar statement was included in Virginia's Declaration of Rights of 1776, and the Virginia Ratification Convention recommended that the same language be added to the Constitution.

#### ARTICLE THE FIFTEENTH

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

#### ARTICLE THE SIXTEENTH

The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

*a*

*dele  
not a*

# Go Inside the First Congress

## Amendments in Process

### House Article the Sixteenth

#### Separation and Distribution of Powers

▶ Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

That the legislative, executive, and judiciary powers of Government should be separate and distinct, and that the members of the two first may be restrained from oppression by feeling and participating the public burthens, they should, at fixt periods be reduced to a private station, return into the mass of the people; and the vacancies be supplied by certain and regular elections; in which all or any part of the former members to be eligible or ineligible, as the rules of the constitution of government, and the laws shall direct.

*Virginia Convention, June 27, 1789*

This proposal made explicit the constitutional terms about separation of powers and the balance of branches. The convention was worried that one branch of government might expand over time at the expense of the others. It coupled this anxiety with the concern that being in office too long might separate members of the government from the people they represented, a problem they thought best addressed by some form of term limits.

#### ARTICLE THE FIFTEENTH.

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

#### ARTICLE THE SIXTEENTH.

The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

a

dele  
not a

# Go Inside the First Congress

## Amendments in Process

### House Article the Sixteenth

#### Separation and Distribution of Powers

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

*James Madison proposed that the following language be inserted into the Constitution as Article VII:*

The powers delegated by this Constitution are appropriated to the departments to which they are respectively distributed: so that the Legislative Department shall never exercise the powers vested in the Executive or Judicial, nor the Executive exercise the powers vested in the Legislative or Judicial, nor the Judicial exercise the powers vested in the Legislative or Executive Departments.

*June 8, 1789*

James Madison echoed the general concern about the separation of powers expressed by the Virginia Convention. In this proposal, Madison put forth the idea of keeping branches separate, but he dropped the idea of term limits that the convention had linked to it.

#### ARTICLE THE FIFTEENTH.

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

#### ARTICLE THE SIXTEENTH.

The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

*a*

*dele  
not a*

# Go Inside the First Congress

## Amendments in Process

### House Article the Sixteenth

#### Separation and Distribution of Powers

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

*Immediately after Article VI, the following to be inserted as Article VII:*

The powers delegated by the constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

*July 28, 1789*

The Select Committee reported the amendment as Madison had proposed it.

#### ARTICLE THE FIFTEENTH.

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

#### ARTICLE THE SIXTEENTH.

The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

*a*

*dele  
not a*



# Go Inside the First Congress

## Amendments in Process

### House Article the Sixteenth

#### Separation and Distribution of Powers

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

The powers delegated by this constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

*August 24, 1789*

The House passed the amendment as it was reported by the Select Committee. In the limited House debate on this topic, Federalist Roger Sherman (CT) argued that the amendment was unneeded, while James Madison (VA) responded, "Its adoption will satisfy the people ... and do no harm."

#### ARTICLE THE FIFTEENTH

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

#### ARTICLE THE SIXTEENTH

The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

*a*

*dele  
not a*

# Go Inside the First Congress

## Amendments in Process

### House Article the Sixteenth

#### Separation and Distribution of Powers

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was defeated by a Senate vote on September 7, 1789.

#### ARTICLE THE FIFTEENTH

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

#### ARTICLE THE SIXTEENTH

The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

*a*

*dele  
not a*



# Go Inside the First Congress

## Amendments in Process

### House Article the Sixteenth

#### Separation and Distribution of Powers

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

As Approved or Amended by the Senate

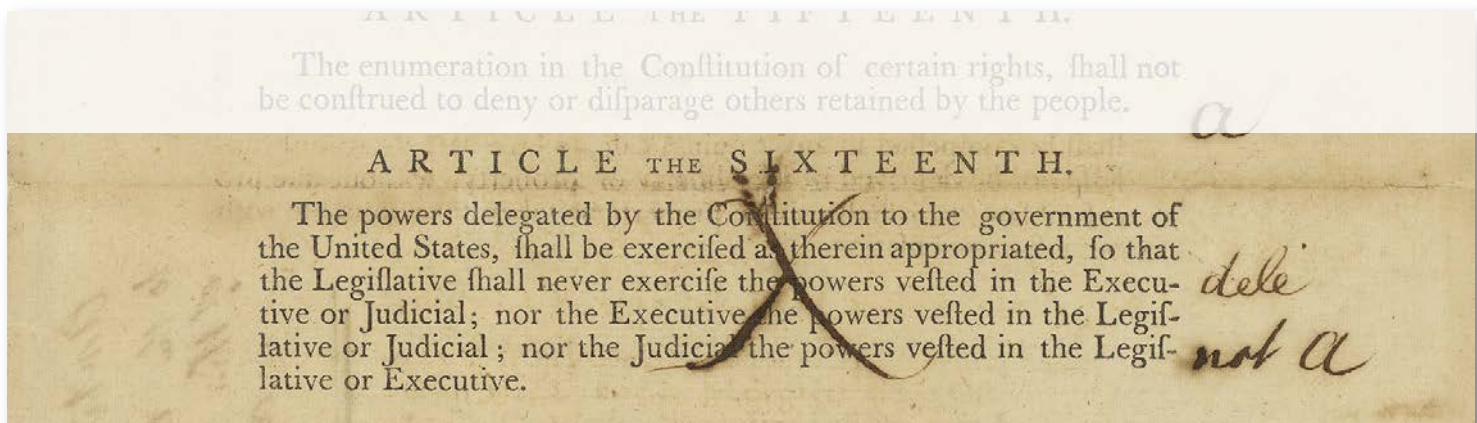


As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

This amendment was not considered by the Conference Committee because it was defeated in the Senate.





# Go Inside the First Congress

## Amendments in Process

### House Article the Sixteenth

#### Separation and Distribution of Powers

Ideas Proposed by State Ratification Conventions

As Proposed by James Madison

As Proposed by the House Committee

As Passed by the House of Representatives

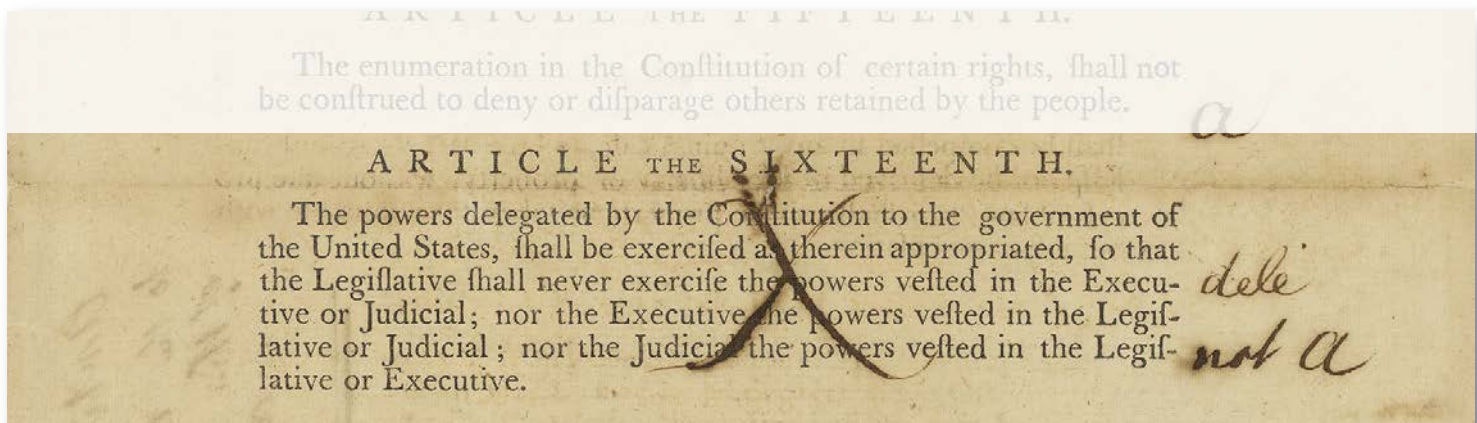
As Approved or Amended by the Senate

As Reported by the Conference Committee

▶ As Sent to the States for Ratification

As Ratified by the States

This proposed amendment was not sent to the states to be ratified.



# Go Inside the First Congress

## Amendments in Process

### House Article the Sixteenth

#### Separation and Distribution of Powers

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This proposed amendment was not ratified by the States.

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

#### ARTICLE THE SIXTEENTH.

The powers delegated by the Constitution to the government of  
the United States, shall be exercised as therein appropriated, so that  
the Legislative shall never exercise the powers vested in the Execu-  
tive or Judicial; nor the Executive the powers vested in the Legis-  
lative or Judicial; nor the Judicial the powers vested in the Legis-  
lative or Executive.

*a*

*dele  
not a*



# Go Inside the First Congress

## Amendments in Process

### House Article the Seventeenth

Unspecified Powers

ARTICLE, <sup>to the U.S.</sup> THE SEVENTEENTH.

The powers not delegated by the Constitution, nor prohibited by it, to the States, are referred to the States respectively, *or to the People*

# Go Inside the First Congress

## Amendments in Process

### House Article the Seventeenth

#### Unspecified Powers

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This proposed amendment reflected the distribution of powers in a federal system composed of separate state governments and a national government. The Constitution was a charter that enumerated certain powers to the branches of the federal government, but also included areas of responsibility without much detail and a “necessary and proper” clause that allowed some latitude in making laws and exercising the enumerated powers.

#### ARTICLE THE SEVENTEENTH.

The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

#### ARTICLE THE SEVENTEENTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Seventeenth

#### Unspecified Powers

Ideas Proposed by State Ratification Conventions

That it be explicitly declared that all Powers not expressly delegated by the aforesaid Constitution are reserved to the several States to be by them exercised.

*Massachusetts Convention, February 6, 1788*

As Proposed by James Madison

As Proposed by the House Committee

That it be Explicitly declared that all Powers not expressly & particularly Delegated by the aforesaid Constitution are reserved to the several States to be, by them Exercised.

*New Hampshire Convention, June 21, 1788*

As Passed by the House of Representatives

As Approved or Amended by the Senate

These proposals from state conventions reflected the concern that federal power would expand at the expense of the states. By expressly and particularly delegating powers, the conventions made the case that all but delegated powers were reserved to the states.

As Reported by the Conference Committee

As Sent to the States for Ratification

As Ratified by the States

ARTICLE THE SEVENTEENTH.  
The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

ARTICLE THE SEVENTEENTH.  
The powers not delegated by the Constitution, nor prohibited by it, to the States, are reserved to the States respectively, or to the People



# Go Inside the First Congress

## Amendments in Process

### House Article the Seventeenth

#### Unspecified Powers

Ideas Proposed by State  
Ratification Conventions

*James Madison proposed that the following language be inserted into the Constitution as Article VII:*

As Proposed by  
James Madison

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

*June 8, 1789*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

Madison succinctly echoed the proposals from the state conventions in this amendment.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

ARTICLE THE SEVENTEENTH.  
The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

ARTICLE THE SEVENTEENTH.  
The powers not delegated by the Constitution, nor prohibited by it, to the States, are reserved to the States respectively, or to the People

# Go Inside the First Congress

## Amendments in Process

### House Article the Seventeenth

#### Unspecified Powers

Ideas Proposed by State Ratification Conventions

*Immediately after Article VI, the following to be inserted as Article VII:*

As Proposed by James Madison

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

*July 28, 1789*

As Proposed by the House Committee

As Passed by the House of Representatives

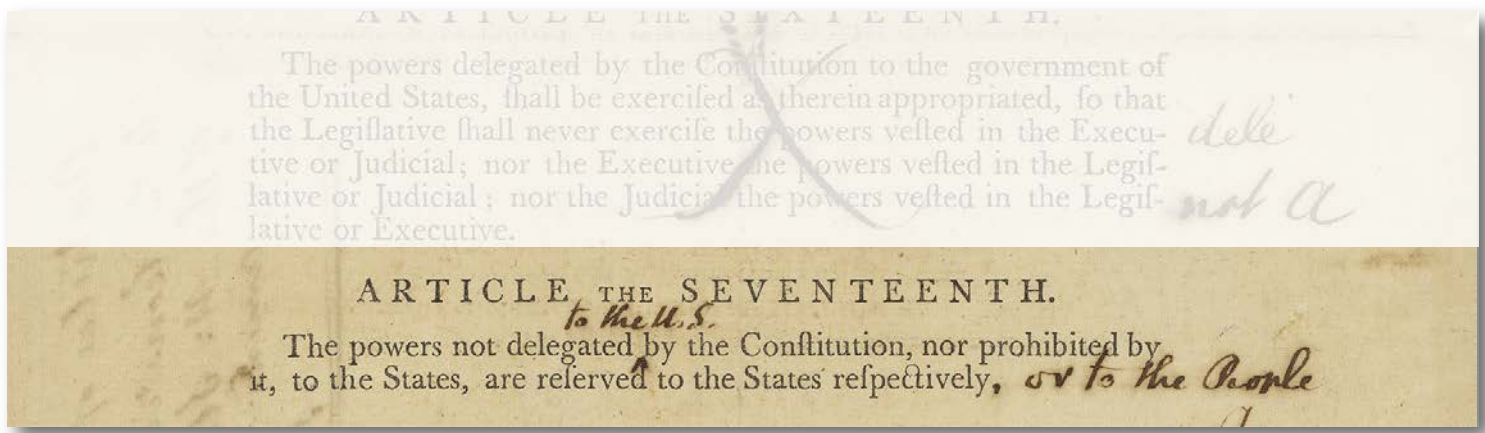
As Approved or Amended by the Senate

As Reported by the Conference Committee

The Select Committee reported the amendment as Madison had proposed it.

As Sent to the States for Ratification

As Ratified by the States



# Go Inside the First Congress

## Amendments in Process

### House Article the Seventeenth

#### Unspecified Powers

Ideas Proposed by State  
Ratification Conventions

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

As Proposed by  
James Madison

*August 24, 1789*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

This amendment was a point of contention between Federalists and Anti-Federalists. Leading Anti-Federalist Elbridge Gerry (MA) proposed to divide the powers among the people, the states, and the federal government. Federalist Daniel Carroll (MD) objected that this change would create a division between the people of the states and their legislatures. The battle over words was crucial in defining whether the amendment specifically protected the power of the states from new federal assertions of authority or further reinforced the general concept that unspecified powers were reserved to the people. The House voted for a specific reservation of undelegated powers to the states.

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

ARTICLE THE SEVENTEETH.  
The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

ARTICLE THE SEVENTEETH.  
The powers not delegated by the Constitution, nor prohibited by it, to the States, are reserved to the States respectively, or to the People

# Go Inside the First Congress

## Amendments in Process

### House Article the Seventeenth

#### Unspecified Powers

Ideas Proposed by State  
Ratification Conventions

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.

As Proposed by  
James Madison

*September 14, 1789*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

The Senate took up Elbridge Gerry's point and added "to the people," broadening the scope of the amendment and indicating that while some powers were reserved to the states, others were reserved to the people at large.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

ARTICLE THE SEVENTEETH.  
The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

ARTICLE THE SEVENTEETH.  
*to the U.S.*  
The powers not delegated by the Constitution, nor prohibited by it, to the States, are reserved to the States respectively, *or to the People*

# Go Inside the First Congress

## Amendments in Process

### House Article the Seventeenth

#### Unspecified Powers

Ideas Proposed by State  
Ratification Conventions

As Proposed by  
James Madison

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

This amendment was not considered by the Conference Committee because the House agreed to the Senate version on September 21, 1789.

#### ARTICLE THE SEVENTEENTH.

The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

#### ARTICLE THE SEVENTEENTH.

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

# Go Inside the First Congress

## Amendments in Process

### House Article the Seventeenth

#### Unspecified Powers

Ideas Proposed by State  
Ratification Conventions

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.

As Proposed by  
James Madison

*October 2, 1789*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

The amendment was sent to the states for ratification in this form.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

ARTICLE THE SEVENTEENTH.  
The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

ARTICLE THE SEVENTEENTH.  
The powers not delegated by the Constitution, nor prohibited by it, to the States, are reserved to the States respectively, or to the People

# Go Inside the First Congress

## Amendments in Process

### House Article the Seventeenth

#### Unspecified Powers

Ideas Proposed by State  
Ratification Conventions

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.

As Proposed by  
James Madison

*December 15, 1791*

As Proposed by the  
House Committee

As Passed by the House  
of Representatives

As Approved or  
Amended by the Senate

This amendment was ratified by the states as the Tenth Amendment in the Bill of Rights.

As Reported by the  
Conference Committee

As Sent to the States  
for Ratification

As Ratified  
by the States

ARTICLE THE SEVENTEENTH.  
The powers delegated by the Constitution to the government of the United States, shall be exercised as therein appropriated, so that the Legislative shall never exercise the powers vested in the Executive or Judicial; nor the Executive the powers vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive.

ARTICLE THE SEVENTEENTH.  
The powers not delegated by the Constitution, nor prohibited by it, to the States, are reserved to the States respectively, or to the People

