

A PROJECT OF THE NATIONAL ARCHIVES –  
CENTER FOR LEGISLATIVE ARCHIVES

# Congress Creates the Bill of Rights

## **Get the Background Part I**

Congress Creates the Bill of Rights  
Before the Bill of Rights  
Bill of Rights Chronology

# 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);
- Amendments in Process (Part II B); and
- Join the Debate and Appendix (Part III).

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

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# Get the Background

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# Get the Background

## Part I



## Get the Background

### Congress Creates the Bill of Rights

During the Revolutionary Era, the Declaration of Independence and Articles of Confederation gave birth to a republic founded on liberty, rights, and limited government, but these charters did not establish a government that could successfully address the growing pains of the new nation. Written in 1787, the Constitution proposed a plan for a more effective government, but many felt that its design was incomplete, leaving the work of the Revolution unfinished.

The ratification of the Constitution in 1788 was a difficult nine-month contest fought in the thirteen individual states. The Constitution was ratified, but some reservations surfaced about its content. A critical minority, referred to as Anti-Federalists, insisted upon the addition of a bill of rights that would protect the rights of individual citizens, and demanded a new look at some of the Constitution's specific provisions. Many of these Anti-Federalist critics believed the First Congress was obliged to correct the Constitution through amendments when it met in the spring of 1789. The Federalist majority in Congress, who supported the Constitution without changes, disagreed and needed prodding by Representative James Madison (VA) before they would take up the question of amendments.

From June to September 1789, Congress proposed, debated, drafted, and re-drafted a list of amendments, some of which failed and some of which passed the high bar of receiving two-thirds of the votes from both the House and the Senate. An extraordinary document—the *Senate Revisions to the House Proposed Amendments to the U.S. Constitution* (referred to as the Senate Mark-up)—reflects how conflicts and compromises between the House and the Senate, and factions in each chamber, shaped the amendments that would become the Bill of Rights.

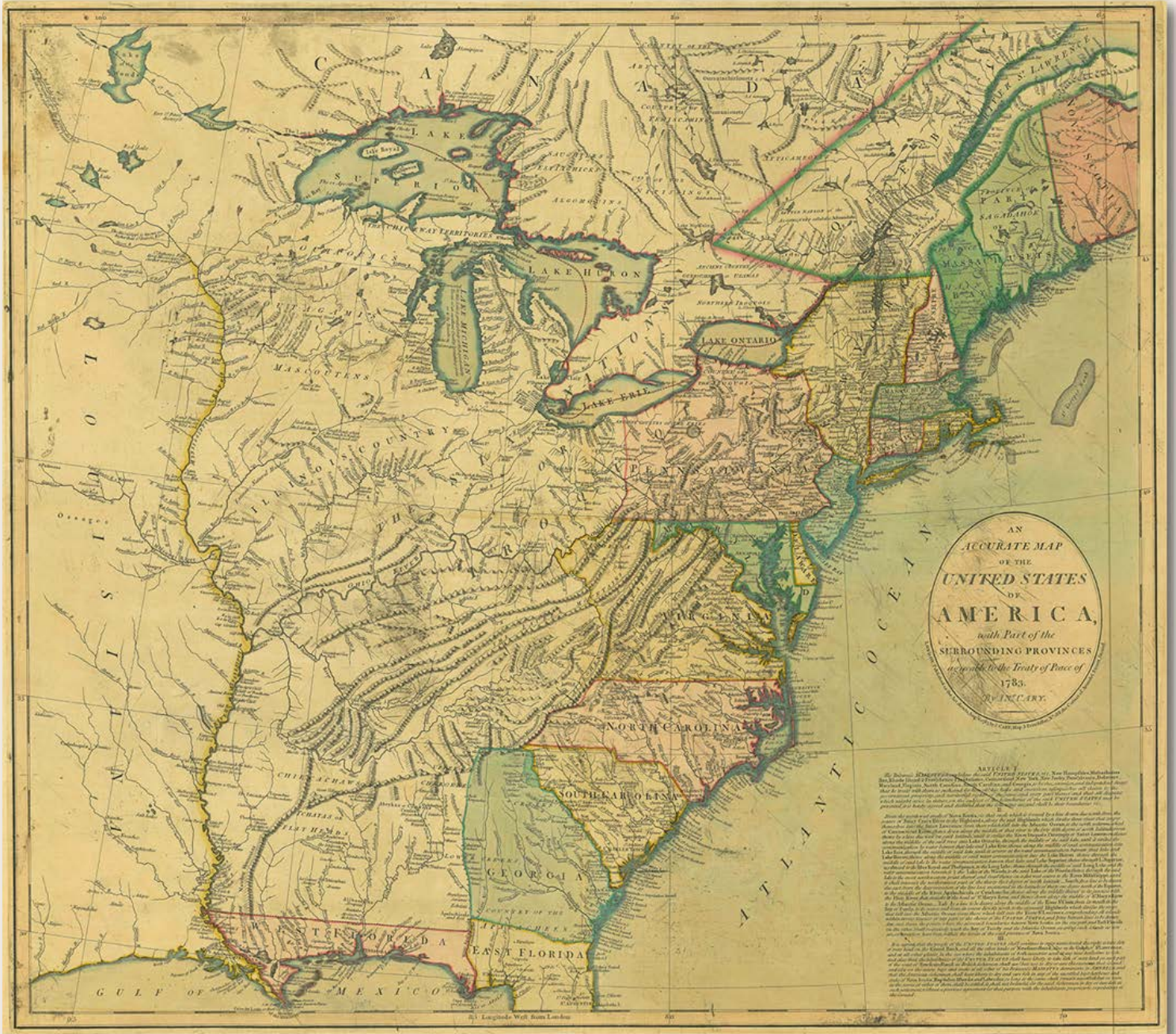
The Bill of Rights revised the Constitution by adding protections for rights and guaranteeing due process in courts of law. The final version of the Bill of Rights, the parchment copy of the original joint resolution passed by both houses of Congress on September 25, 1789, is on permanent display at the National Archives as one of the Charters of Freedom from the founding era. This document preserves a milestone in our history, showing how Congress debated many ideas and, through compromise, proposed a set of amendments to the original Constitution.

*Congress Creates the Bill of Rights* provides a front-row seat to the proceedings that created the Bill of Rights, and invites you to join the debate on this historic accomplishment.



# Get the Background

## Before the Bill of Rights



The story of the creation of the Bill of Rights began in the 1780s with the drafting of the Constitution and the struggle over its ratification by the states.

*An Accurate Map of the United States of America, with Part of the Surrounding Provinces agreeable to the Treaty of Peace of 1783*

# Get the Background

## Before the Bill of Rights

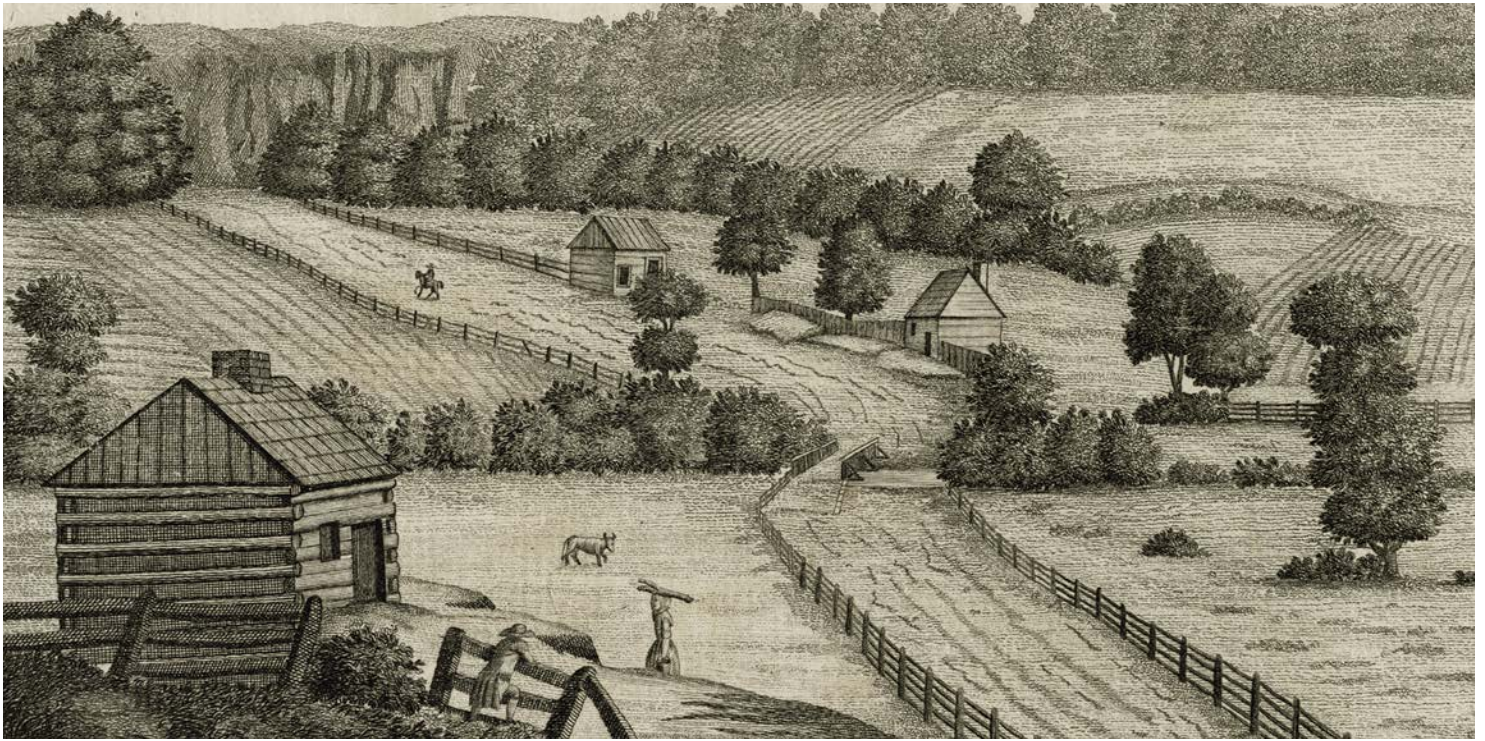


The map shows the United States in 1783 when Great Britain recognized American independence and the Treaty of Paris formally ended the Revolutionary War.

*An Accurate Map of the United States of America, with Part of the Surrounding Provinces agreeable to the Treaty of Peace of 1783 (Detail)*

## Get the Background

### Before the Bill of Rights



By the late 1780s the United States had a population of approximately 3.9 million scattered across thirteen states, ranging from Massachusetts to Georgia, and a large federal territory to the west.

*View from Bushongo Tavern 5 miles from York Town on the Baltimore Road, 1788*



## Get the Background

### Before the Bill of Rights



The population consisted of 1.6 million white males; 1.5 million white females; and 750,000 African American men and women, 90 percent of whom were enslaved. A significant number of Native Americans also lived within and outside the nation's borders. The majority of the population lived near the Atlantic coast in 1789.

*View of the city of Boston from Breeds Hill in Charlestown, ca. 1791*

## Get the Background

### Before the Bill of Rights



The westward movement of people was increasing in number and distance, pushing the frontier over the Appalachian Mountains into the Ohio and Tennessee River valleys.

*A view on the Mohawk River, 1793*

## Get the Background

### Before the Bill of Rights

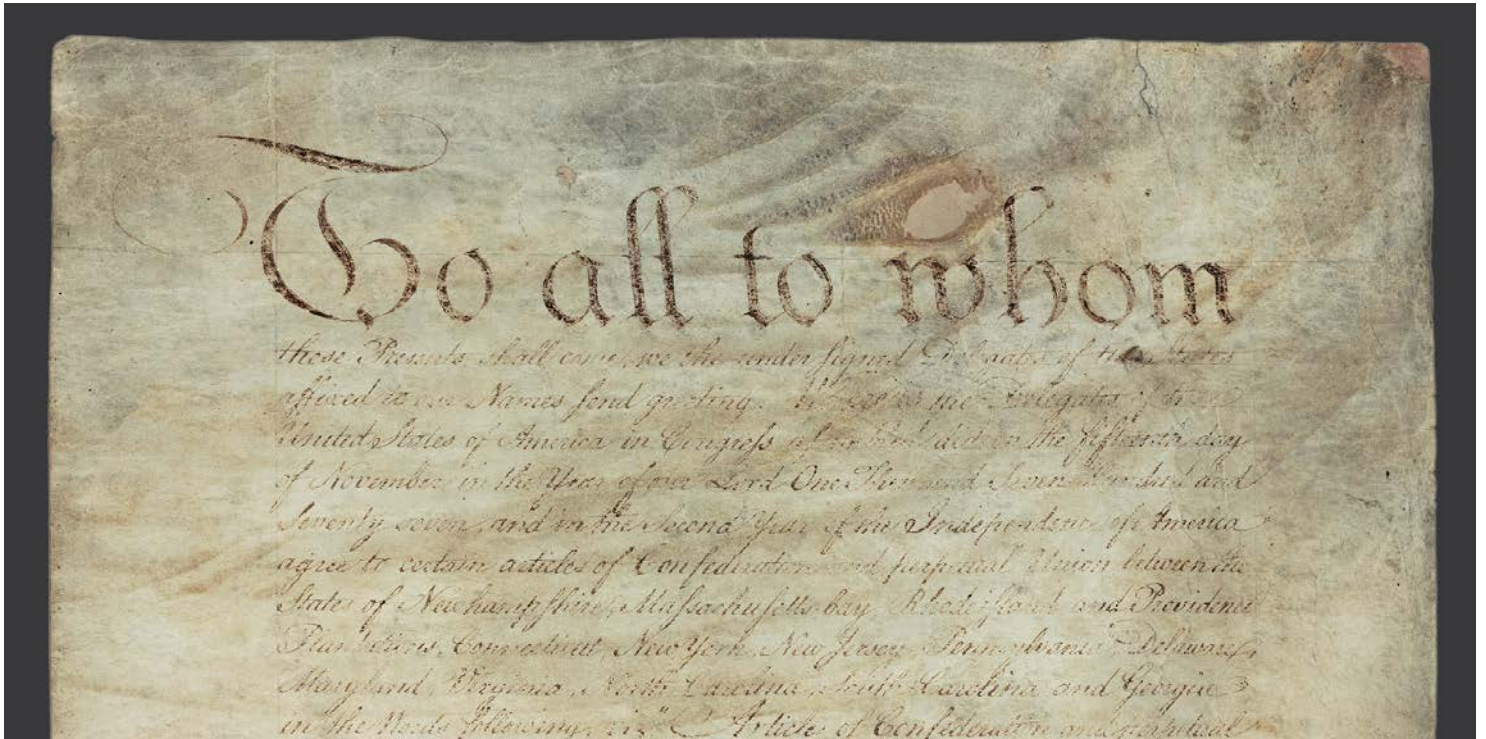


The economy was centered in ports such as Boston, New York, Philadelphia, and Charleston, and consisted primarily of exported agricultural staples and raw materials exchanged for imported manufactured goods.

*Charleston, S.C. in 1780*

## Get the Background

### Before the Bill of Rights



Under the Articles of Confederation ratified in 1781, the states were linked in a loose association, like thirteen allied but separate partners. The states held the majority of power and the Confederation Congress had to achieve agreement of all states on issues of importance such as ratifying treaties, regulating trade, and raising taxes. By 1786, economic and political problems were apparent.

Articles of Confederation, 1781

## Get the Background

### Before the Bill of Rights

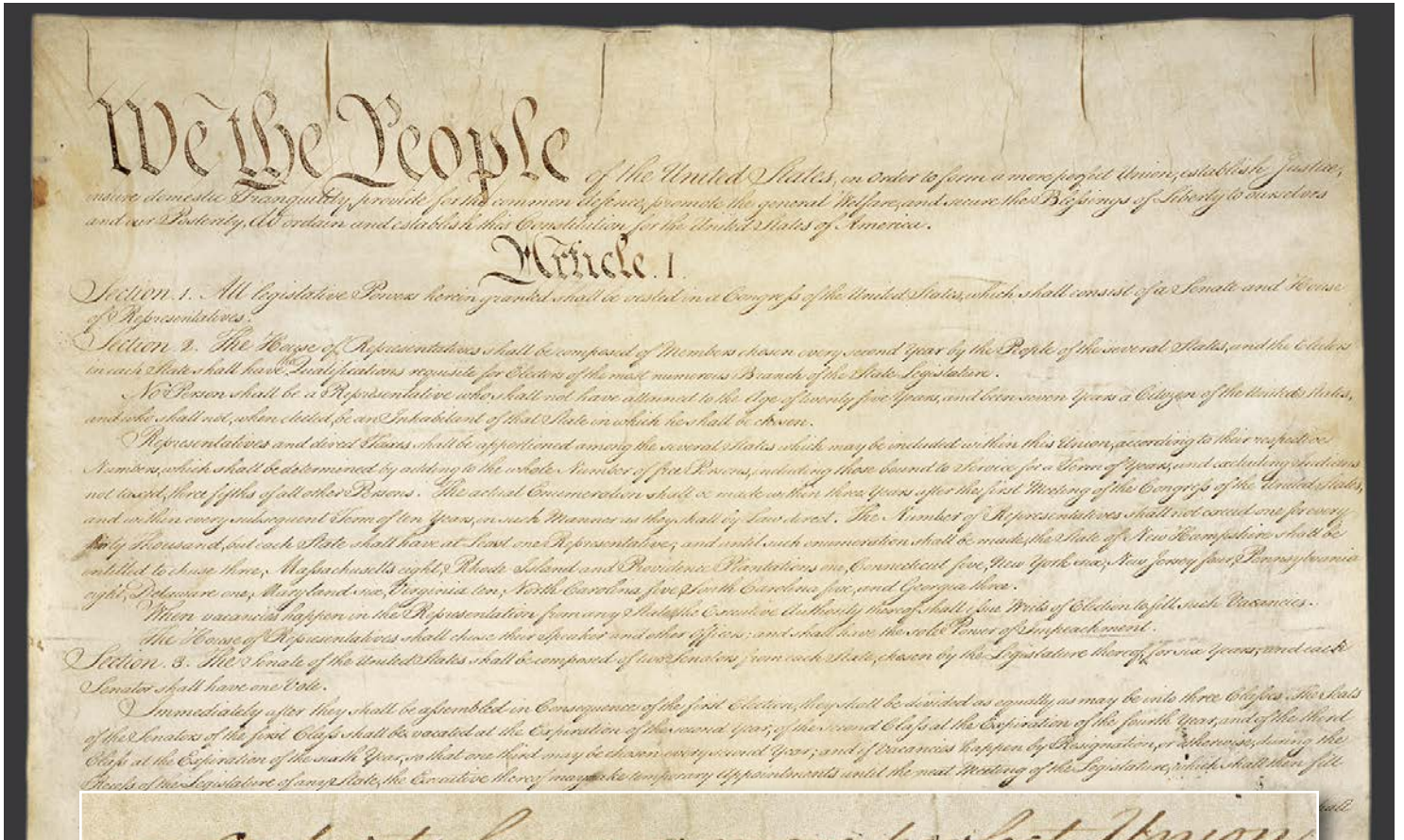


The Constitutional Convention met in Philadelphia in May 1787 to draft a plan for a new national government. The fifty-five delegates—including James Madison, Alexander Hamilton, George Mason, and George Washington—hammered out a new Constitution. In it they established a republican system of government that distributed powers between a strong central government and the states.

*A N.W. [north west] view of the state house in Philadelphia taken 1778*

# Get the Background

## Before the Bill of Rights

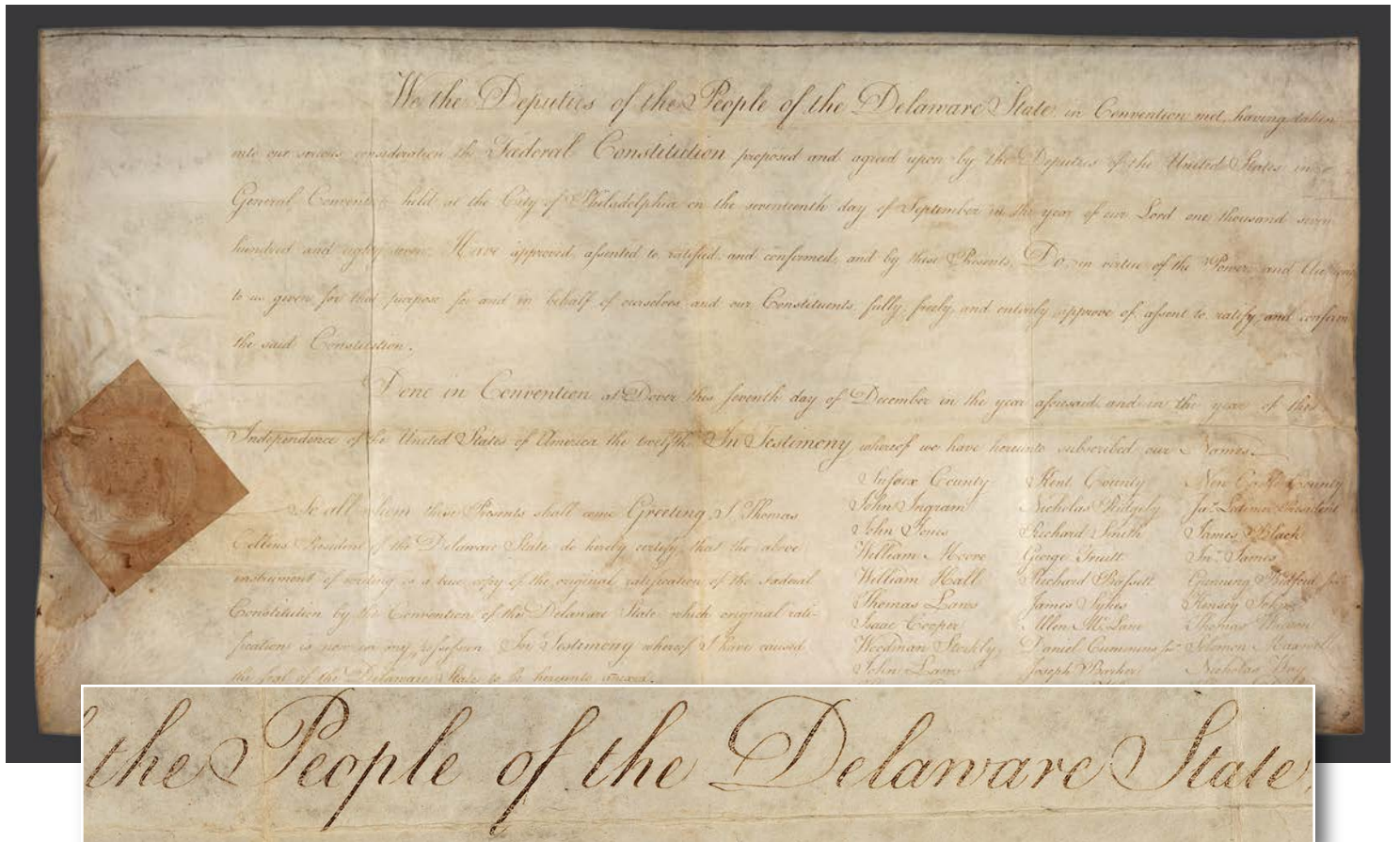


By using the phrase “We the People,” the founders reflected the philosophical belief that sovereignty and “a more perfect Union” emanated from the will of the people.

Constitution of the United States, 1787

# Get the Background

## Before the Bill of Rights



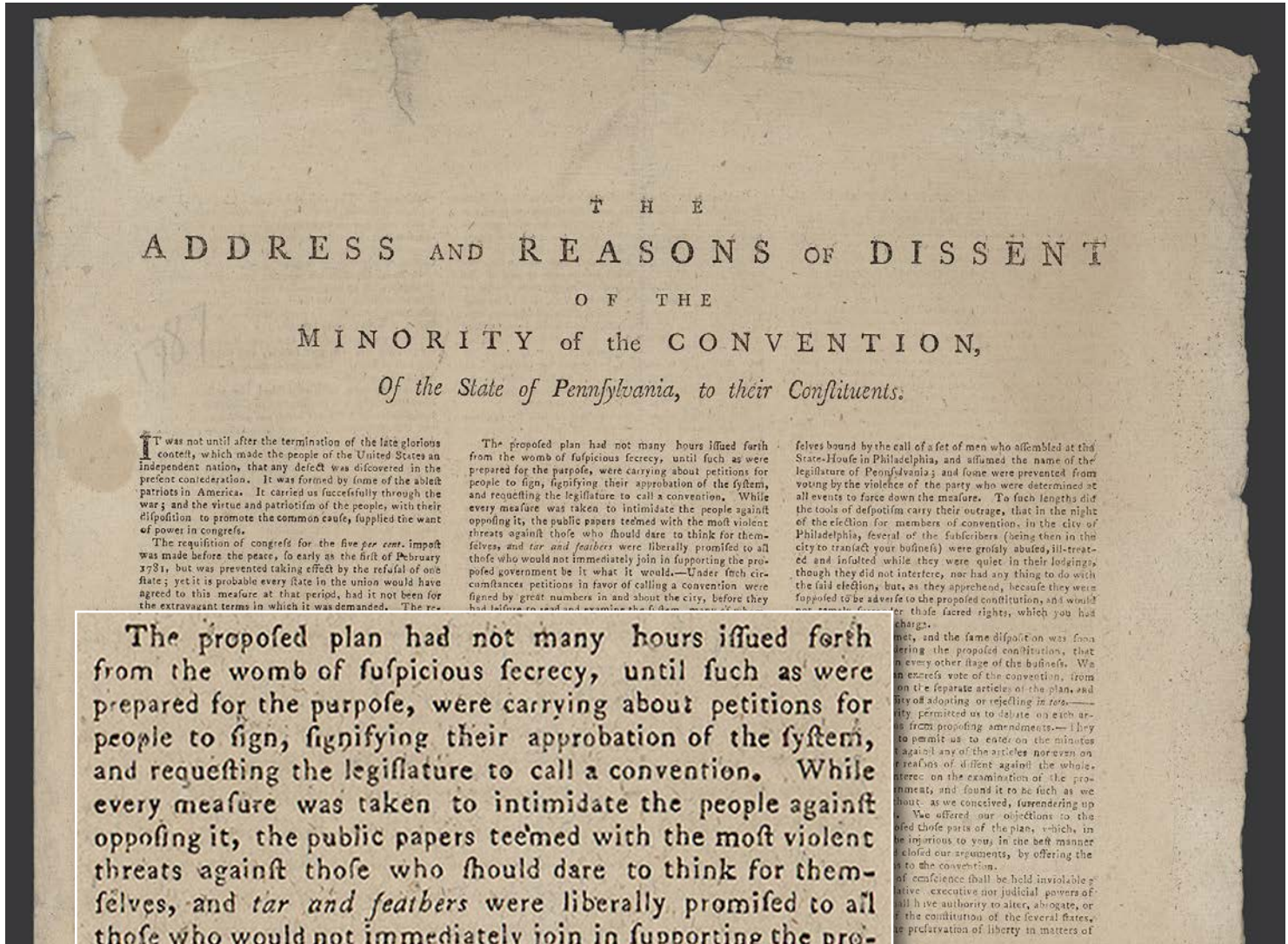
Before the new government could start operating, two-thirds of the states had to ratify the Constitution. The first states ratified without debate.

Delaware's Certificate of Ratification of the Constitution, 1787



# Get the Background

## Before the Bill of Rights



T H E  
A D D R E S S   A N D   R E A S O N S   O F   D I S S E N T  
O F   T H E  
M I N O R I T Y   o f   t h e   C O N V E N T I O N,  
*Of the State of Pennsylvania, to their Constituents.*

**I**T was not until after the termination of the late glorious contest, which made the people of the United States an independent nation, that any defect was discovered in the present confederation. It was formed by some of the ablest patriots in America. It carried us successfully through the war; and the virtue and patriotism of the people, with their disposition to promote the common cause, supplied the want of power in congress.

The requisition of congress for the five per cent. impost was made before the peace, so early as the first of February 1781, but was prevented taking effect by the refusal of one state; yet it is probable every state in the union would have agreed to this measure at that period, had it not been for the extravagant terms in which it was demanded. The re-

The proposed plan had not many hours issued forth from the womb of suspicious secrecy, until such as were prepared for the purpose, were carrying about petitions for people to sign, signifying their approbation of the system, and requesting the legislature to call a convention. While every measure was taken to intimidate the people against opposing it, the public papers teemed with the most violent threats against those who should dare to think for themselves, and *tar and feathers* were liberally promised to all those who would not immediately join in supporting the proposed government be it what it would.—Under such circumstances petitions in favor of calling a convention were signed by great numbers in and about the city, before they had leisure to read and examine the system, many of whom,

now they are better acquainted with it, and have had time to investigate its principles, are heartily opposed to it. The petitions were speedily handed in to the legislature. They themselves bound by the call of a set of men who assembled at the State-House in Philadelphia, and assumed the name of the legislature of Pennsylvania; and some were prevented from voting by the violence of the party who were determined at all events to force down the measure. To such lengths did the tools of despotism carry their outrage, that in the night of the election for members of convention, in the city of Philadelphia, several of the subscribers (being then in the city to transact your business) were grossly abused, ill-treated and insulted while they were quiet in their lodgings, though they did not interfere, nor had any thing to do with the said election, but, as they approached, because they were supposed to be adverse to the proposed constitution, and would not comply for those sacred rights, which you had charge.

met, and the same disposition was found in every other stage of the business. We in every vote of the convention, from the separate articles of the plan, and the mode of adopting or rejecting in toto.—The convention permitted us to debate on each article from proposing amendments.—They to permit us to enter on the minutes against any of the articles now even on reasons of dissent against the whole, entered on the examination of the promment, and found it to be such as we thought as we conceived, surrendering up. We offered our objections to the proposed parts of the plan, which, in the most injurious to you, in the best manner we could our arguments, by offering the same to the convention. The convention of confidence shall be held inviolable executive, executive nor judicial powers of all five authority to alter, abrogate, or the constitution of the several states, the preservation of liberty in matters of

The proposed plan had not many hours issued forth from the womb of suspicious secrecy, until such as were prepared for the purpose, were carrying about petitions for people to sign, signifying their approbation of the system, and requesting the legislature to call a convention. While every measure was taken to intimidate the people against opposing it, the public papers teemed with the most violent threats against those who should dare to think for themselves, and *tar and feathers* were liberally promised to all those who would not immediately join in supporting the proposed government be it what it would.—Under such circumstances petitions in favor of calling a convention were signed by great numbers in and about the city, before they had leisure to read and examine the system, many of whom, now they are better acquainted with it, and have had time to investigate its principles, are heartily opposed to it. The petitions were speedily handed in to the legislature.

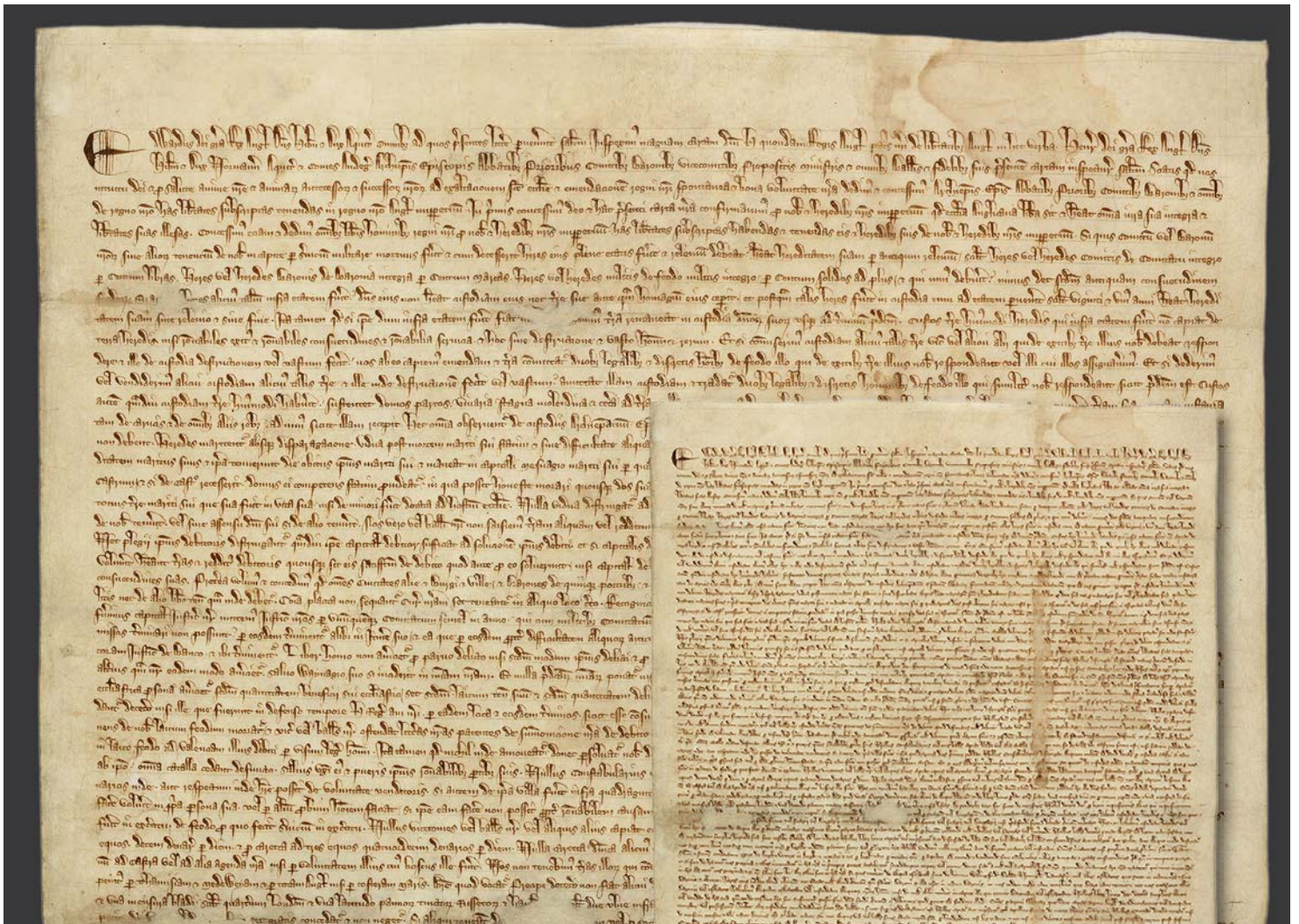
The struggle grew more conflicted, though, as groups within the states began to call for changes to the Constitution and the addition of a bill of rights.

*The Address and Reasons of Dissent of the Minority of the Convention, of the State of Pennsylvania, to their Constituents, 1787*





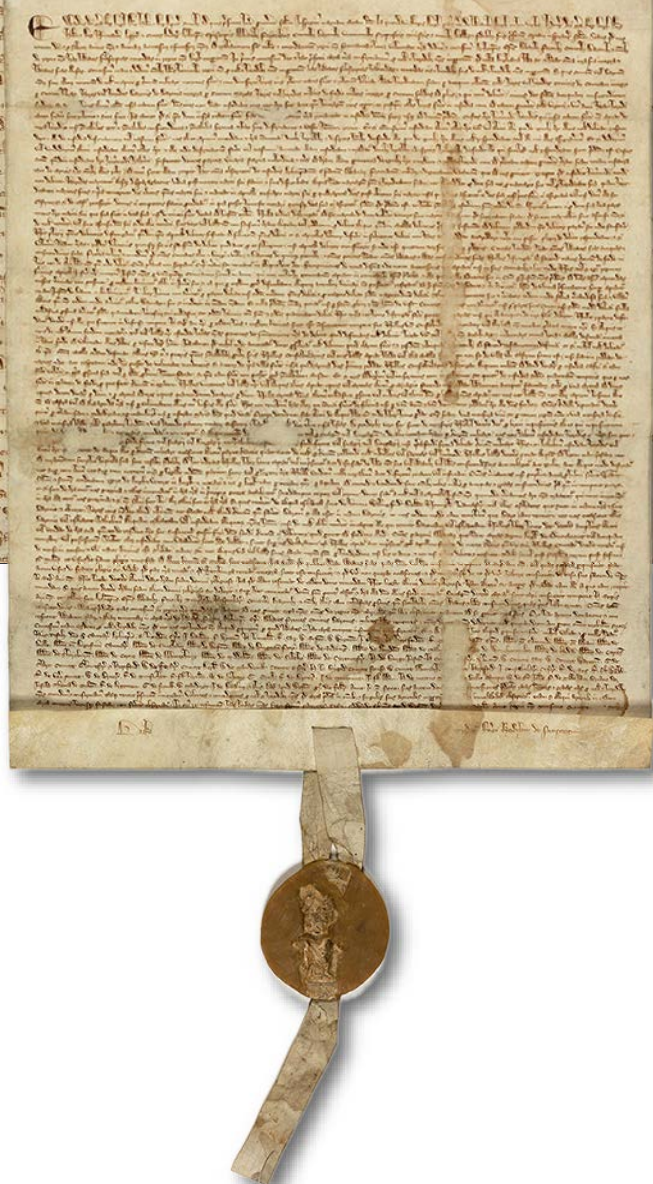
# Get the Background Before the Bill of Rights



Seven states already had bills of rights. Their existence reflected the widely held desire for a bill of rights to preserve the traditional rights of free men. In the words of Thomas Jefferson, “A bill of rights is what the people are entitled to against every government on earth....”

Magna Carta, 1297

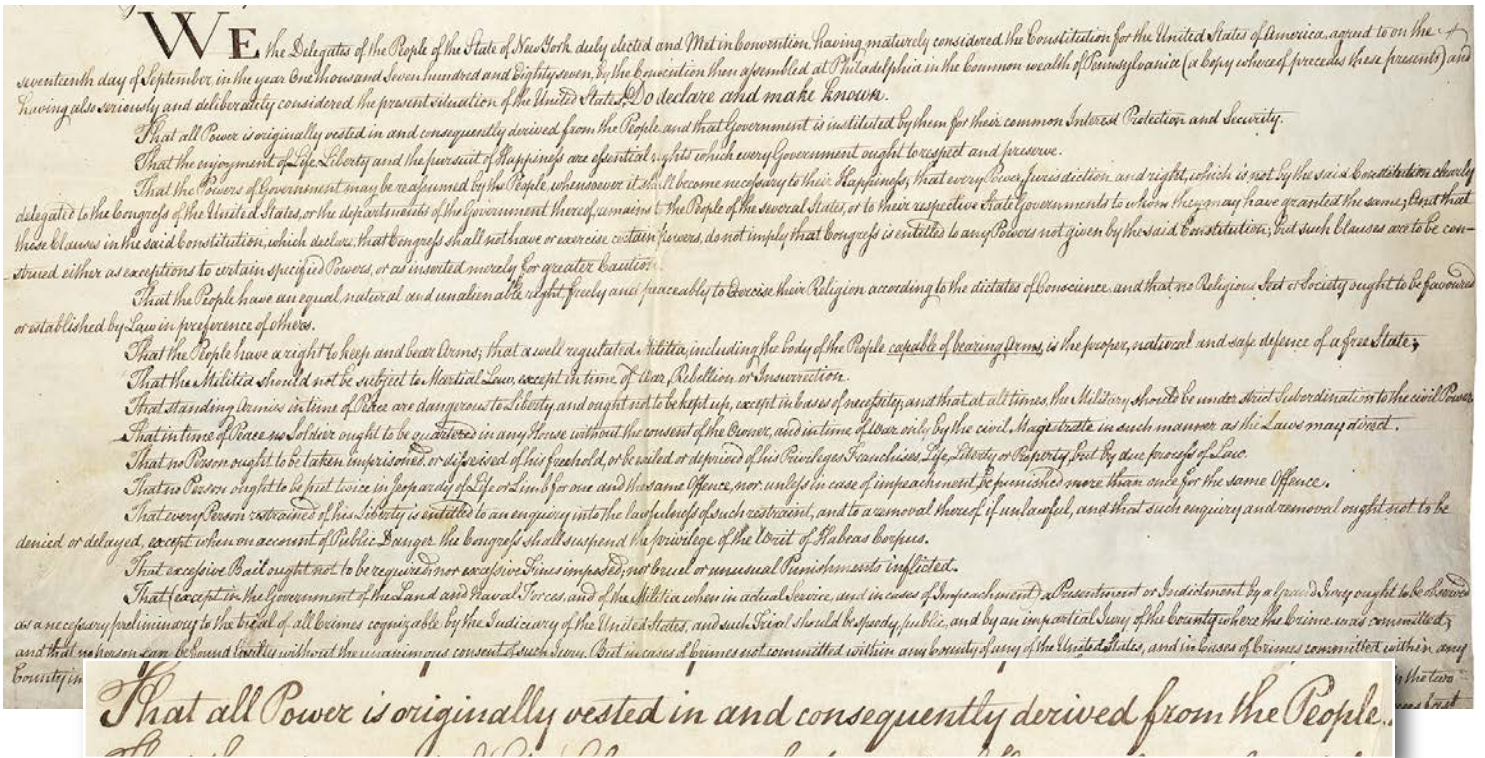
National Archives, Courtesy of David M. Rubenstein





# Get the Background

## Before the Bill of Rights

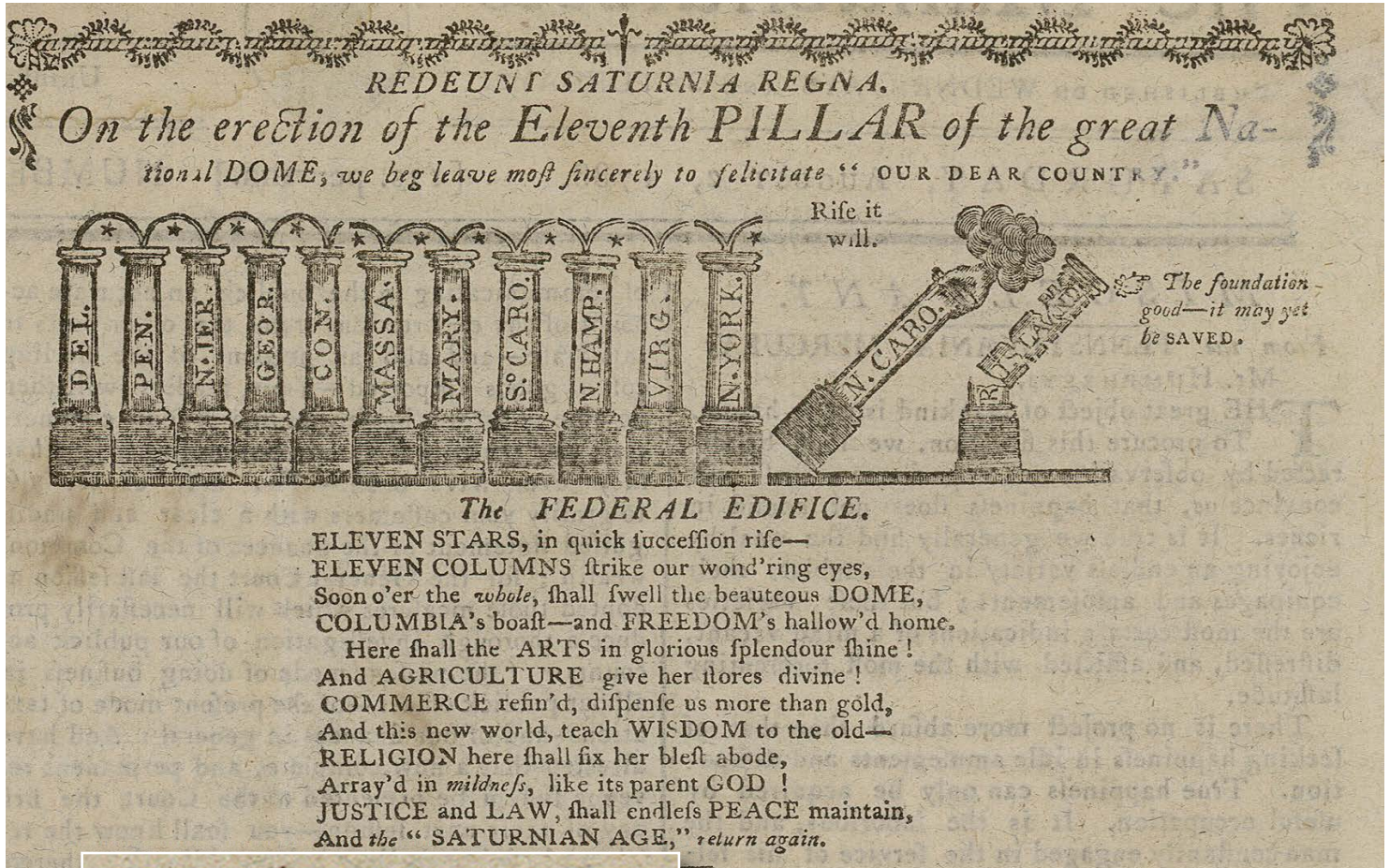


Fanned by essays in the press and speeches in conventions, this dissent grew and yielded long lists of proposed amendments for Congress to take up after ratification. Some of the most radical voices even called for a second constitutional convention to fix the unsatisfactory parts of the charter.

New York's Ratification of the Constitution with Proposed Amendments, 1788

# Get the Background

## Before the Bill of Rights



The foundation good—it may yet be SAVED.

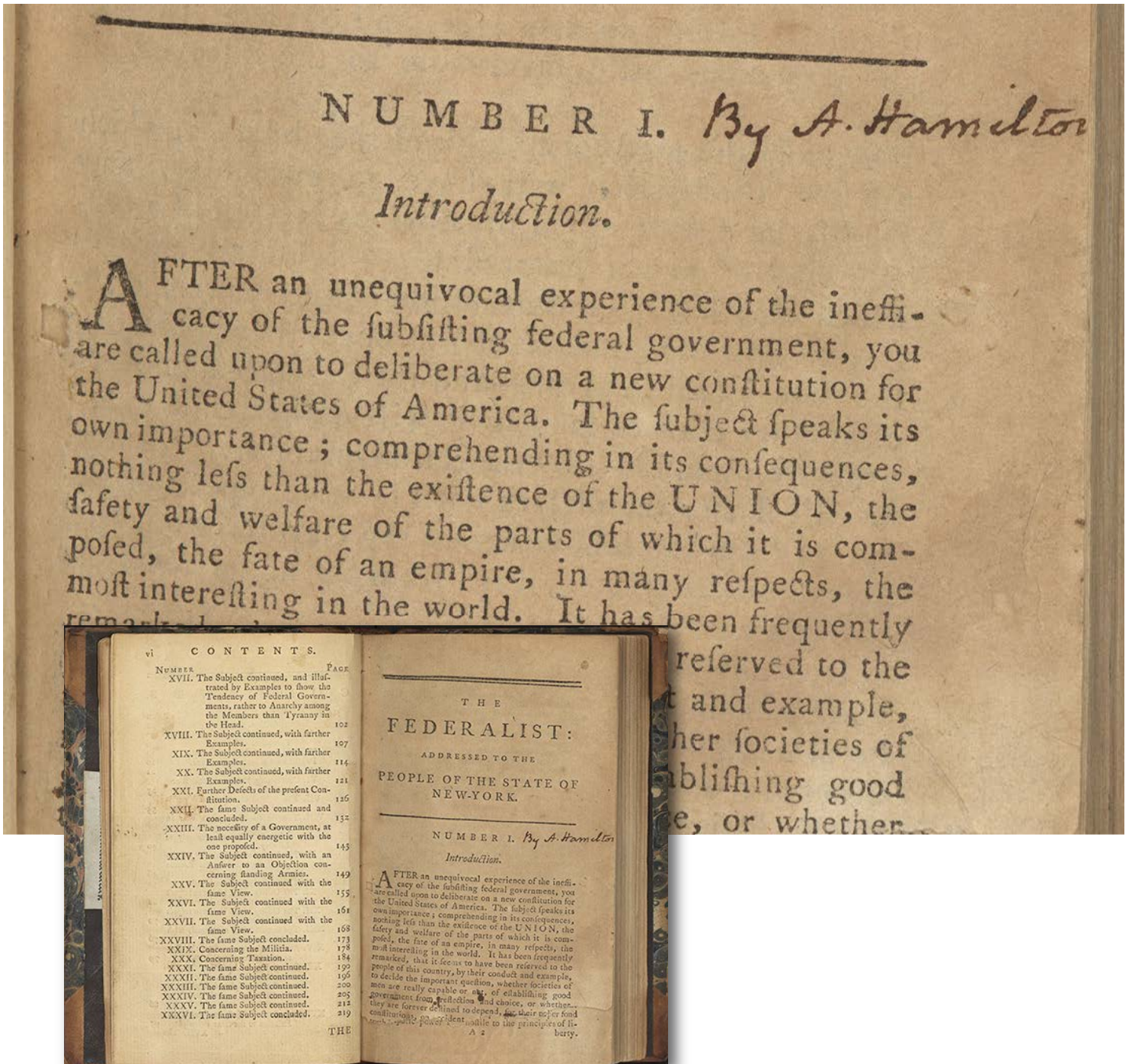
Enough states voted for ratification, so there was no need for a second convention, but a sizeable faction referred to as Anti-Federalists continued to insist that Congress propose constitutional amendments limiting federal powers and guaranteeing individual rights.

"The Federal Edifice." *Massachusetts Centinel*, 1788



# Get the Background

## Before the Bill of Rights

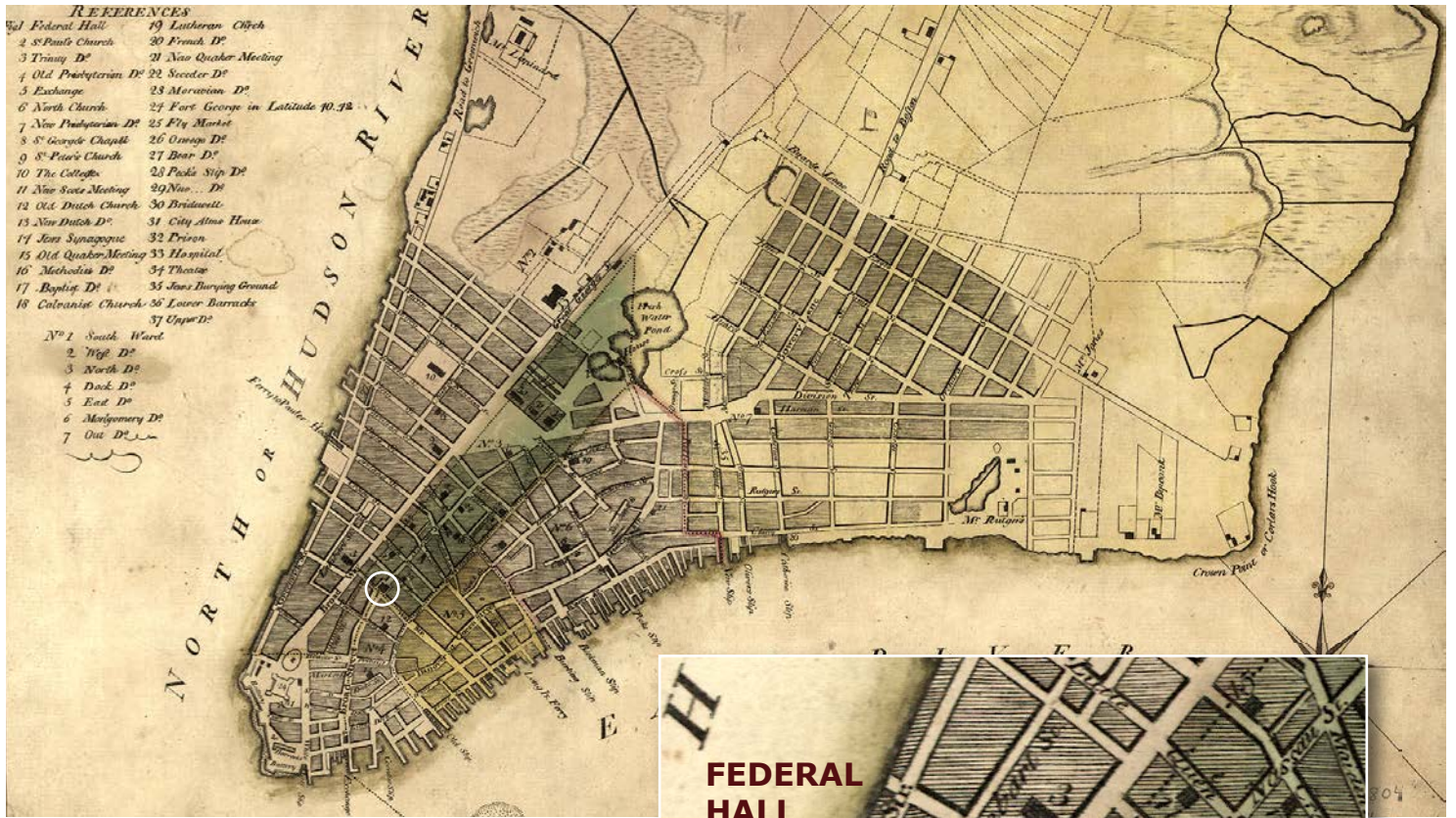


Their rivals, the Federalists, won the allegiance of most voters in the first federal elections with their call for putting the Constitution into practice before considering any changes.

*The Federalist: A Collection of Essays, Written in Favour of the New Constitution, 1788*

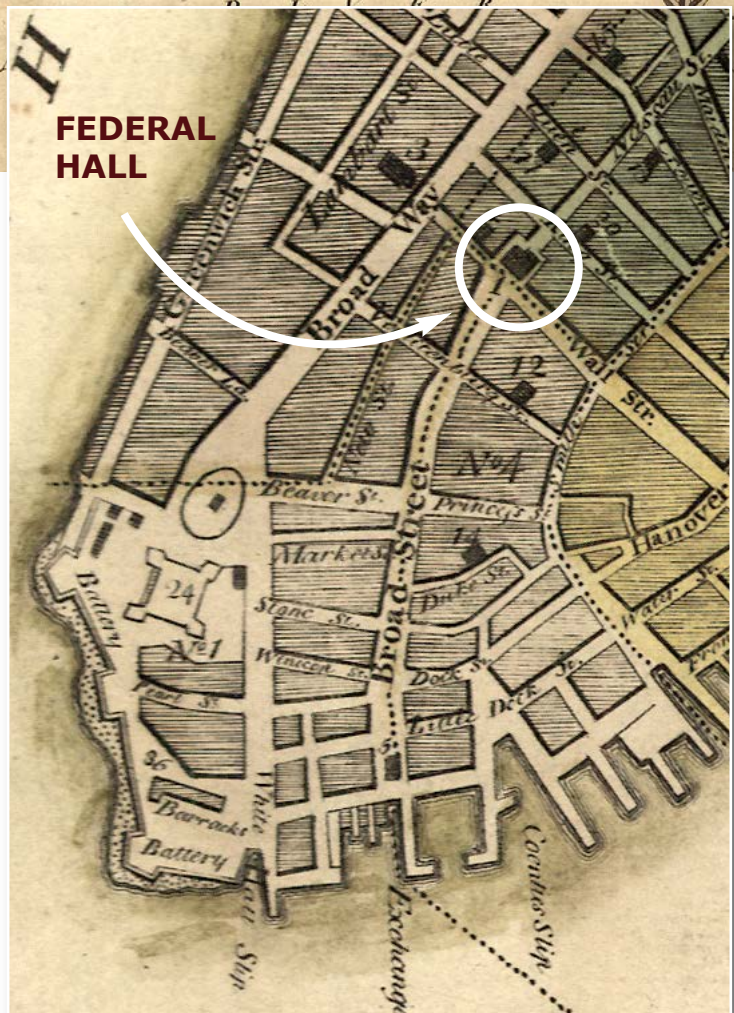
# Get the Background

## Before the Bill of Rights



When the new government convened in the spring of 1789, it met in New York City, then the largest U.S. city with a population of 29,000.

Plan of the City of New York, 1789



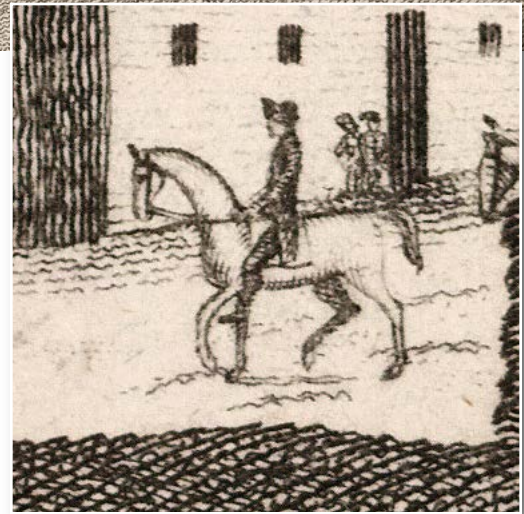
# Get the Background

## Before the Bill of Rights



Among the first acts of Congress was to count the electoral votes and declare George Washington the unanimous selection to be the first president. He made his way north from Mount Vernon to New York City through welcoming crowds and triumphal arches.

*View of the triumphal arch, and the manner of receiving General Washington at Trenton, on his route to New-York, April 21st 1789*



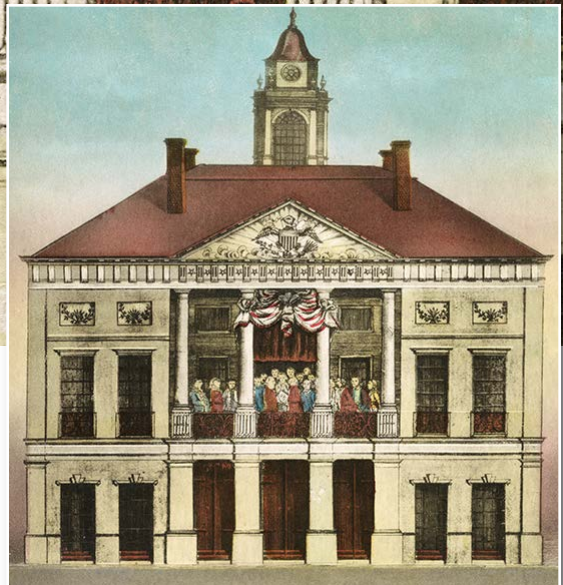
# Get the Background

## Before the Bill of Rights



Washington was inaugurated on the portico of Federal Hall on April 30, 1789.

*Federal Hall, N.Y. 1789*



# Get the Background

## Before the Bill of Rights



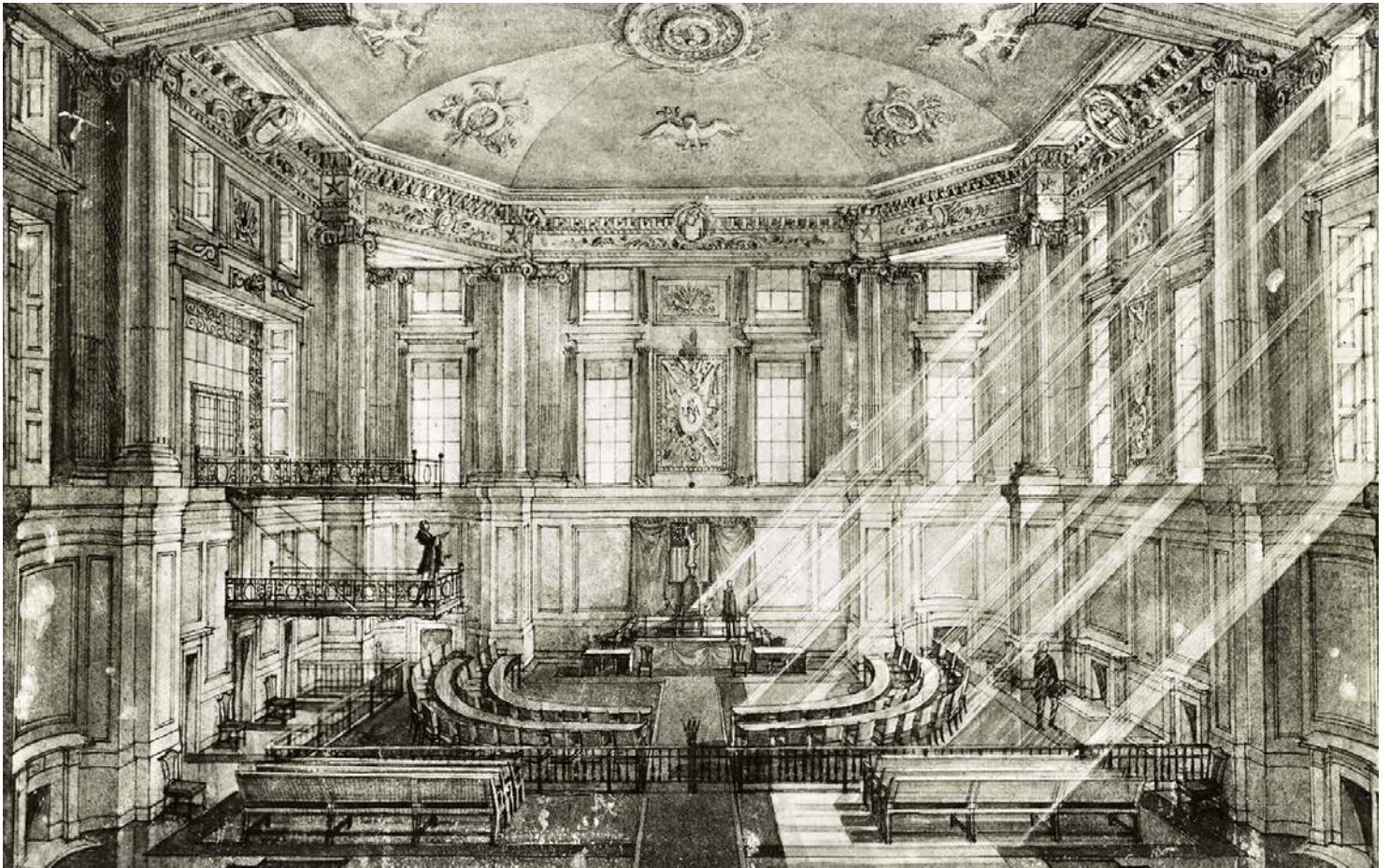
Federal Hall, located on Wall Street, had been the meeting place of the Confederation Congress since 1785. The building was enlarged to accommodate the new legislature that included both the House of Representatives and the Senate.

*Federal Hall, Wall Street and Trinity Church, New York, in 1789*



## Get the Background

### Before the Bill of Rights



When the House and Senate achieved a quorum in April 1789, Federalist majorities ruled in both chambers. As a representative in the House, James Madison (VA) made Federal Hall a forum for implementing the Constitution. Yet he also understood the importance of finding workable compromises on the issue of adding amendments to the Constitution.

*Chambers in the House of Representatives, Federal Hall*

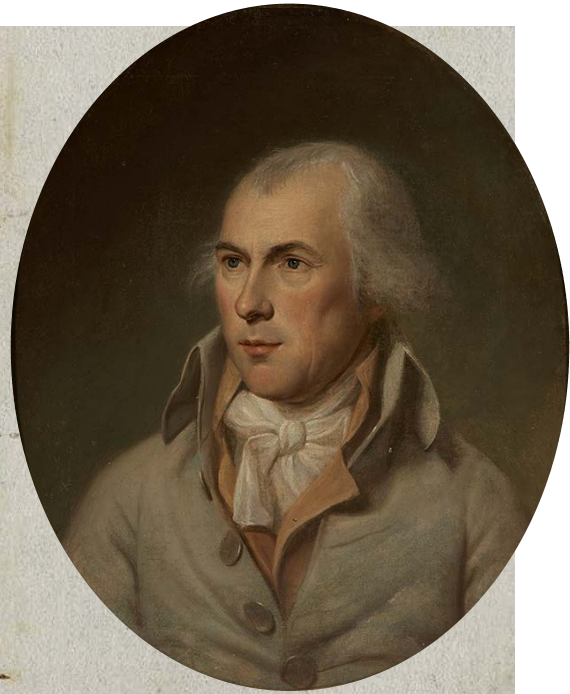
Conjectural drawing based on eyewitness descriptions, by William Hindley, ca. 1940



# Get the Background

## Before the Bill of Rights

Bill of Rts ergo. proper -  
I. increase of Rep<sup>l</sup> - 2 for each St.  
II. pay of Cong<sup>s</sup>  
III. Interdict to States as to Commerce  
- Prop - & Jury -  
This more useful to the - w<sup>o</sup> Cong<sup>s</sup>  
IV. Checks on appeals - & Commerce  
V. part<sup>l</sup> as to 3 Dep<sup>ts</sup> - &  
7<sup>o</sup> as to Genl. & St: Gov<sup>ts</sup>



to print 1. as Madison said that the  
2. Legislature as the Sts -  
3. the majority of people  
right to print by greatest danger  
Bill of Rts: is protection of majority -  
Here proper, tho' less necessary, than  
in small Republics

Object<sup>o</sup> vs. Bill of Rts.  
1. in Britain the all power in people  
have consequence of impo<sup>r</sup> - this is the  
2. In Fed<sup>l</sup> Gov<sup>t</sup>: all not given retained  
Bill of Rts: restore bill of Rts -  
3. St: Bills not repeal<sup>d</sup> in Convention  
The first open vs St: Bills -  
with guard<sup>o</sup> vs. by amend<sup>t</sup> -  
6. not effect<sup>o</sup> - vs St: also - but some  
checks -  
Courts will aid - also - vs: also  
St: Legisl<sup>o</sup> watch  
Time justify - improve public  
Institution

Bill of Rts ergo. proper -  
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V. part<sup>l</sup> as to 3 Dep<sup>ts</sup> - &  
7<sup>o</sup> as to Genl. & St: Gov<sup>ts</sup>

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Madison's House colleagues were dismissive when he proposed a slate of amendments in June of 1789, arguing that more important work was at hand. Madison was undeterred. In late July, he seized an opportunity to have his proposals sent to committee. The hard work of compromise had begun.

James Madison by Charles Willson Peale, Gilcrease Museum, Tulsa, Oklahoma

James Madison's notes for his speech introducing the Bill of Rights, June 8, 1789

## Get the Background

### Bill of Rights Chronology

#### **March 4, 1789**

The First Federal Congress is scheduled to meet in New York City.

#### **April 1, 1789**

The House achieves a quorum.

#### **April 6, 1789**

The Senate achieves a quorum.

#### **May 4, 1789**

James Madison makes a motion in the House to debate the subject of amendments to the Constitution.

#### **June 8, 1789**

Madison gives a speech in the House proposing nine amendments.

#### **July 21, 1789**

The House forms a select committee, the Committee of Eleven, with one member from each state, to consider amendments to the Constitution. Rhode Island and North Carolina have not yet ratified the Constitution, so their members are not present.

#### **July 28, 1789**

The Committee of Eleven issues a report accepting the substance of most of Madison's proposals, although textual changes are made to individual articles.

#### **August 13, 1789**

The House votes to discuss the report of the Committee of Eleven.

#### **August 24, 1789**

The House passes a joint resolution containing seventeen amendments and sends it to the Senate.

#### **September 2, 1789**

Debate in the Senate begins.

## Get the Background

### Bill of Rights Chronology (continued)

#### **September 9, 1789**

The Senate changes the joint resolution to include only twelve amendments.

#### **September 19 and 21, 1789**

The House accedes to some of the Senate changes, and requests the formation of a House-Senate conference committee, the Conference Committee on Amendments, to work on remaining points of disagreement.

#### **September 24, 1789**

The House approves the Conference Committee report.

#### **September 25, 1789**

The Senate approves the Conference Committee report.

#### **September 29, 1789**

The first session adjourns.

#### **October 2, 1789**

President George Washington sends the proposed amendments to the states for ratification.

#### **December 15, 1791**

The Bill of Rights is ratified by three-fourths of the states.

#### **March 1, 1792**

Secretary of State Thomas Jefferson sends official notification to the states of the ratification of the Bill of Rights.

