

A PROJECT OF THE NATIONAL ARCHIVES –
CENTER FOR LEGISLATIVE ARCHIVES

Congress Creates the Bill of Rights

**Join the Debate and Appendix
Part III**

Take a Seat
Time to Reflect
Bill of Rights, 1789

Appendix

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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Join the Debate and Appendix

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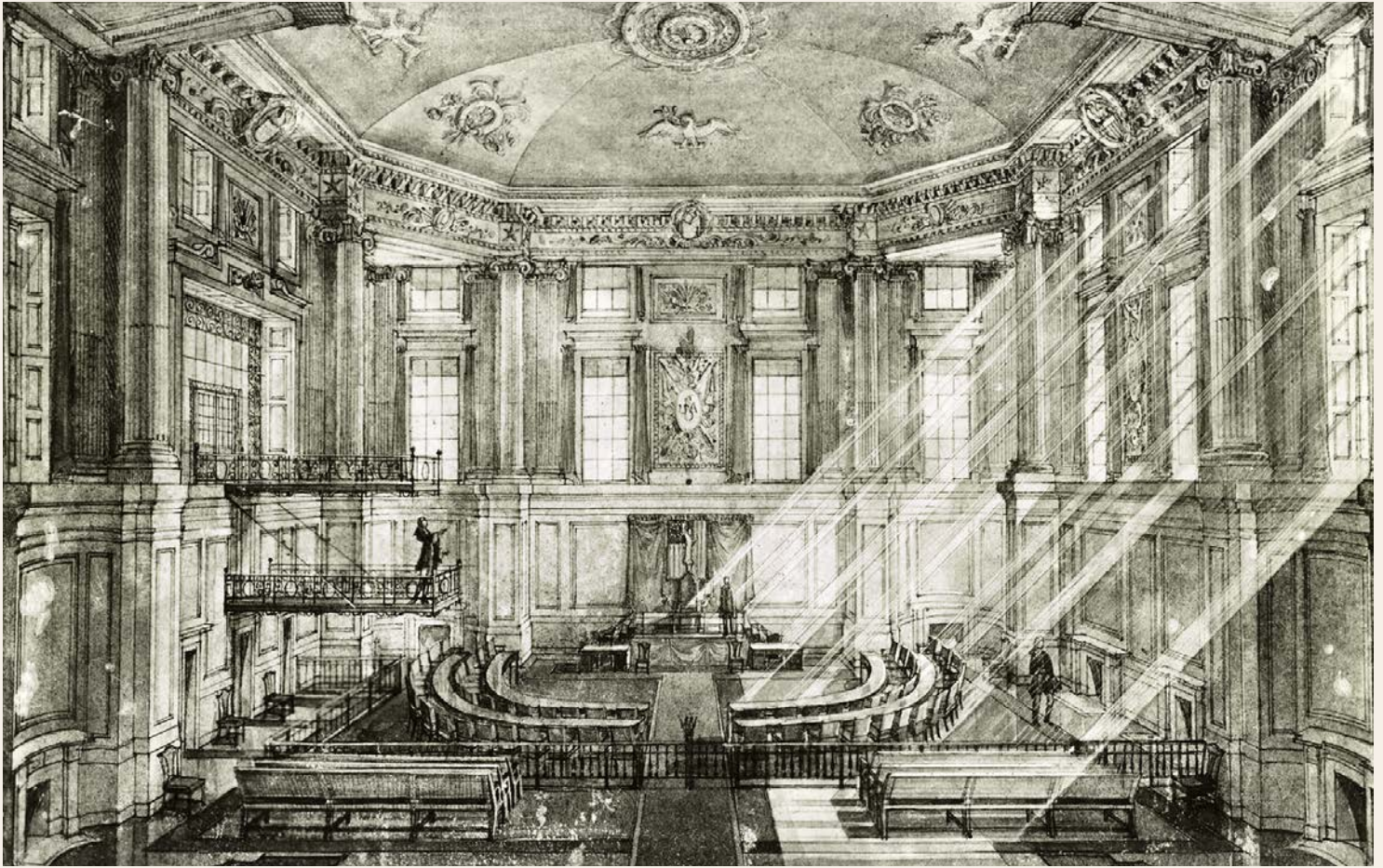


Join the Debate

Part III

Join the Debate

Take a Seat



It's a hot day in August 1789, and you are sitting in the House of Representatives in Federal Hall in New York City. All of your colleagues are there sweating with you. There's a lot of work to be done. A long list of proposals is being put to the vote, and the ones that pass will be considered by the Senate to be included in the Bill of Rights. You have strong opinions and you want your vote to count. How will you vote on each of these issues?



Join the Debate

How will you vote on the proposed amendments?

Members' Pay

Federal Rights

Separation of Powers

Term Limits on Members

Limit Federal Taxes

Personal Debts to the Federal Government

Standing Army

No Monopolies

Titles of Nobility

Term Limits on the President

Join the Debate

Time to Vote

Members' Pay

Summary

No sitting Congress can vote to change its present salary. The voters must have a chance to elect a new Congress before any change in pay can take effect.

Original Wording

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

More Information

People were concerned in 1789 that members of the House and the Senate might vote to raise their salaries to excessive levels. This amendment insured that they would have to face the voters before any change in pay could go into effect.

Vote Yes

Sorry (or Congratulations?). You voted with James Madison and the majority in the House to pass this amendment. The Senate also approved it, but the states did not ratify this amendment in the 1790s. You were ahead of your time, however, because this amendment reappeared in the 1980s and was ratified by the states as the Twenty-Seventh Amendment in 1992.

Vote No

Congratulations (or Sorry?). Though you lost the vote in the House, the states did not ratify this amendment. History was not kind to you, however, because this amendment reappeared in the 1980s and was ratified by the states as the Twenty-Seventh Amendment in 1992.



Join the Debate

Time to Vote

Federal Rights

Summary

None of the states can limit the right to a jury trial in criminal cases, nor the freedom of religious belief, nor freedom of speech or the press.

Original Wording

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.

More Information

This amendment would constitute a federal guarantee of rights against violation by individual states.

Vote Yes

Sorry (or Congratulations?). You voted with James Madison, who called this the most important amendment, and the majority in the House, but the Senate defeated it. You were ahead of your time, however, because the Fourteenth Amendment, ratified in 1868 after the Civil War, effectively applied the Bill of the Rights to the states.

Vote No

Congratulations (or Sorry?). You voted with the Anti-Federalists in the House, but the amendment passed the House. The Senate defeated it though. History was not kind to you, however, because the Fourteenth Amendment, ratified in 1868 after the Civil War, effectively applied the Bill of Rights to the states.



Join the Debate

Time to Vote

Separation of Powers

Summary

Each branch of government may only exercise the powers granted to it in the Constitution. No branch may exercise powers granted to another branch.

Original Wording

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.

More Information

The principle of separation of branches is a central feature of the Constitution, with the legislative, executive, and judicial powers spelled out, respectively, in Articles I, II, and III. The language used in the Constitution is often general, however, leaving wide latitude to define the limits of various powers granted or implied, and some powers may be shared between branches. This amendment seeks to prevent any branch from expanding its power at the expense of the other two.

Vote Yes

Congratulations (or Sorry?). You voted with James Madison, who advocated for this amendment, and it passed the House. However, it was defeated in the Senate.

Vote No

Sorry (or Congratulations?). You voted with the minority in the House, and it passed the House. However, it was defeated in the Senate.



Join the Debate

Time to Vote

Term Limits on Members

Summary

No member of the House of Representatives may be elected for more than three terms in succession.

Original Wording

Nor shall any person be capable of serving as a representative more than six years in any term of eight years.

More Information

This would impose term limits on House members. After six years of service, a member would return to private life and could not run for Congress for two years.

Vote Yes

Sorry. You voted with Anti-Federalist leader Thomas Tudor Tucker who proposed this amendment in the House of Representatives in August of 1789. The House defeated it.

Vote No

Congratulations! You voted with James Madison and a majority in the House who voted against this amendment when it was proposed in August of 1789.



Join the Debate

Time to Vote

Limit Federal Taxes

Summary

Congress shall not tax except when the proceeds from taxes on imports and products are insufficient to meet expenses. In that case, it may only tax if states have failed to pay the requests for funding that Congress has made upon them.

Original Wording

The Congress shall never impose direct taxes, but where the monies arising from the duties, imposts and excise, are insufficient for the public exigencies; nor then, until Congress shall have made a requisition upon the states, to assess, levy and pay their respective proportions of such requisitions: and in case any state shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess and levy such state's proportion, together with interest thereon, at the rate of six per cent. Per annum, from the time of payment prescribed by such requisition.

More Information

This amendment would have re-created the funding plan in place under the failed Articles of Confederation, making the federal government dependent upon the states for funds and greatly restricting its autonomy.

Vote Yes

Sorry. You voted with Anti-Federalist leader Thomas Tudor Tucker who proposed this amendment in the House of Representatives in August 1789. The House defeated it.

Vote No

Congratulations! You voted with the majority in the House who voted against this amendment in August 1789.



Join the Debate

Time to Vote

Personal Debts to the Federal Government

Summary

No one owing money to the United States shall be eligible for election to the House or Senate.

Original Wording

That no person indebted to the United States shall be entitled to a seat in either branch of the legislature.

More Information

This amendment would mean that individuals who owed money for federal taxes, land, or other financial obligations could not serve in Congress.

Vote Yes

Sorry. You voted with the Anti-Federalists, who proposed this amendment in August 1789. The House defeated it.

Vote No

Congratulations! You voted with the majority in the House, who voted against this amendment in August 1789.



Join the Debate

Time to Vote

Standing Army

Summary

No permanent, professional army will be maintained during peacetime without the consent of a two-thirds vote of each house of Congress.

Original Wording

That no standing army or troops shall be raised or kept up in time of peace, without the consent of two-thirds of the members present in both Houses.

More Information

Anti-Federalists feared that a standing army would control the foreign policy of the federal government, strengthen the presidency at the expense of Congress, and concentrate federal power at the expense of states.

Vote Yes

Sorry. You voted with the Anti-Federalists, who proposed this amendment in August 1789. The House defeated it.

Vote No

Congratulations! You voted with the majority in the House, who voted against this amendment in August 1789.



Join the Debate

Time to Vote

No Monopolies

Summary

Congress shall not create companies with protected rights to control certain aspects of the economy.

Original Wording

That Congress shall erect no company of merchants with exclusive advantages of commerce.

More Information

British Crown-protected monopolies—such as the East India Company—had outraged colonists in the years leading up to the Revolution. This amendment was intended to prevent the establishment of government-protected commercial monopolies.

Vote Yes

Sorry. You voted with the Anti-Federalists, who proposed this amendment in August 1789. The House defeated it.

Vote No

Congratulations! You voted with the majority in the House, who voted against this amendment in August 1789.



Join the Debate

Time to Vote

Titles of Nobility

Summary

No one holding office in or employed by the United States can accept a title of nobility from a foreign state.

Original Wording

Congress shall at no time consent that any person holding an office of trust or profit under the United States, shall accept of a title of nobility, or any other title or office from any king, prince, or foreign state.

More Information

The United States shared borders with land held by powerful monarchies (especially England and Spain) and conducted commerce with them as well. Titles could be offered as inducements or bribes to convince American officials to serve foreign interests rather than American interests.

Vote Yes

Sorry. You voted with the House minority. This amendment failed, although concerns about the influence of foreign powers on American officials continued to be a topic of debate for many decades.

Vote No

Congratulations! You voted with the majority in the House. Although the amendment failed, concerns about the influence of foreign powers on American officials continued to be a topic of debate for many decades.



Join the Debate

Time to Vote

Term Limits on the President

Summary

No president can serve more than two terms within a sixteen-year period.

Original Wording

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

More Information

Many feared that a president, once in office, might be continually elected, converting the republic into an elected monarchy and concentrating power in the hands of the executive.

Vote Yes

Sorry (or Congratulations?). You voted with the Anti-Federalists, who proposed this amendment in August 1789. The House defeated it. You were ahead of your time, though. Presidential term limits were set by the Twenty-Second Amendment, ratified in 1951.

Vote No

Congratulations (or Sorry?). You voted with the majority in the House, who voted against this amendment in August 1789. History was not kind to you, however, because presidential term limits were set by the Twenty-Second Amendment, ratified in 1951.



Join the Debate

Time to Reflect

These questions provide an opportunity to reflect on four important historical issues about the First Congress and the Bill of Rights. They can be considered before or after exploring the app, and they can be addressed individually or in group discussion.

1.

It is often thought that things get done in Congress through the influence of leading individuals. James Madison (VA) was respected as an intellectual and a legislative leader by his colleagues in the First Congress (1789–1791). Many feel that without his leadership there would have been no Bill of Rights. At the same time, the Bill of Rights that was created was not exactly what Madison had originally proposed.

Taking stock of Madison’s leadership and achievement in proposing amendments, how successful was he as a leader in the creation of the Bill of Rights?

If Madison had not provided leadership on amendments, and if the First Congress had not started the process of creating the Bill of rights, how would the politics of the early republic have been different?

2.

Anti-Federalist leader Aedanus Burke (SC) dismissed James Madison’s proposed amendments as “little better than whip syllabub, frothy, full of wind, formed only to please the palate.”

Why might an Anti-Federalist have expressed this opinion, and did his assessment have some validity?

3.

Following the suggestion of Roger Sherman (CT), Congress decided to attach the Bill of Rights to the end of the document rather than accepting James Madison’s approach to change the text of the Constitution itself.

How might the Constitution and Bill of Rights have been affected by following Madison’s approach instead of Sherman’s?



Join the Debate

Time to Reflect

4.

Creating the Bill of Rights was one of the early accomplishments that demonstrated that the First Congress could serve as a forum to resolve important national issues.

How did the process of considering each amendment in a small House committee, the whole House, and the Senate bring different points of view to bear upon the amendments and allow different voices to help shape each of them?

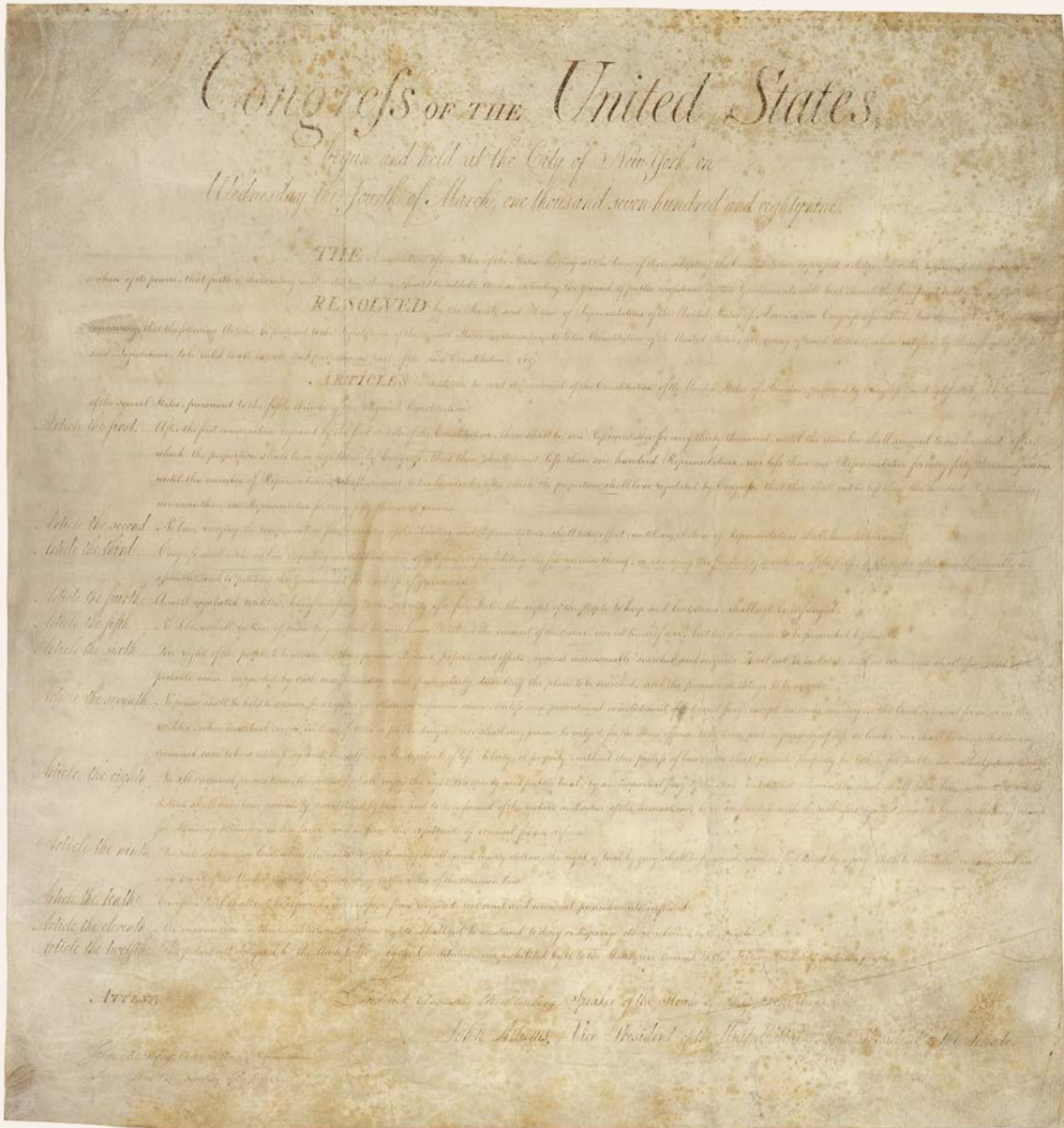


Join the Debate

Bill of Rights, 1789

Bill of Rights, 1789

The enrolled joint resolution of Congress proposing articles of amendment to the Constitution—the Bill of Rights—is on display in the Rotunda of the National Archives in Washington, DC, as one of the Charters of Freedom. The joint resolution was signed by Frederick Augustus Muhlenberg, Speaker of the House, and by John Adams, President of the Senate on September 28, 1789. It includes the text of the original twelve articles of amendment proposed by Congress. Of those, ten amendments (numbers three through twelve) comprising the Bill of Rights were ratified by three-fourths of the states by 1791.



RG 11: General Records of the United States Government, National Archives

Appendix

Image Credits

Marbled Paper by Renato Crepaldi

Opening screen

A view of the Federal Hall of the City of New York, as it appeared in the year 1797; with the adjacent buildings thereto by George Holland, 1847
Prints and Photographs Division, Library of Congress

Senate Revisions to the House Proposed Amendments to the U.S. Constitution, 1789
RG 46: Records of the U.S. Senate, National Archives

Before the Bill of Rights

An Accurate Map of the United States of America, with Part of the Surrounding Provinces agreeable to the Treaty of Peace of 1783
RG 76: Series 8, Map 22, National Archives

View from Bushongo Tavern 5 miles from York Town on the Baltimore Road, 1788
Emmet Collection, Miriam and Ira D. Wallach Division of Art, Prints and Photographs, The New York Public Library, Astor, Lenox, and Tilden Foundations

View of the city of Boston from Breeds Hill in Charlestown, ca. 1791
Prints and Photographs Division, Library of Congress

A view on the Mohawk River, 1793
Prints and Photographs Division, Library of Congress

Charleston, S.C. in 1780
Emmet Collection, Miriam and Ira D. Wallach Division of Art, Prints and Photographs, The New York Public Library, Astor, Lenox, and Tilden Foundations

Articles of Confederation, 1781
RG 360: Records of the Continental and Confederation Congresses and the Constitutional Convention, National Archives

A N.W. [north west] view of the state house in Philadelphia taken 1778
Prints and Photographs Division, Library of Congress

Constitution of the United States, 1787
RG 360: Records of the Continental and Confederation Congresses and the Constitutional Convention, National Archives

Delaware's Certificate of Ratification of the Constitution, 1787
RG 11: General Records of the United States Government, National Archives

The Address and reasons of dissent of the minority of the convention, of the state of Pennsylvania, to their constituents, 1787
Rare Book and Special Collections Division, Library of Congress

Magna Carta, 1297
National Archives, Courtesy of David M. Rubenstein

Appendix

Image Credits

New York's Ratification of the Constitution with Proposed Amendments, 1788
RG 11: General Records of the United States Government, National Archives

"The Federal Edifice." *Massachusetts Centinel*, 1788
Serial and Government Publications Division, Library of Congress

The Federalist: A Collection of Essays, Written in Favour of the New Constitution.
2 vols. New York: J. and A. McLean, 1788.
Rare Book and Special Collections Division, Library of Congress

Plan of the City of New York, 1789
Peter Force Map Collection, Geography and Map Division, Library of Congress

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

Federal Hall, N.Y. 1789, by Amos Doolittle
Prints and Photographs Division, Library of Congress

Federal Hall, Wall Street and Trinity Church, New York, in 1789
Prints and Photographs Division, Library of Congress

Chambers in the House of Representatives, Federal Hall
Conjectural drawing based on eyewitness descriptions, by William Hindley, ca. 1940
Prints and Photographs Division, Library of Congress

James Madison's Notes for his Speech Introducing the Bill of Rights, June 8, 1789
Manuscript Division, Library of Congress

James Madison by Charles Willson Peale, ca. 1792
Gilcrease Museum, Tulsa, Oklahoma

Leaders of the Debate

Fisher Ames by James Sharples, ca. 1797
National Portrait Gallery, Smithsonian Institution/Art Resource, NY

Aedanus Burke by Max Rosenthal, ca. 1890 (after a 1782 painting by an unknown artist)
Print Collection, Miriam and Ira D. Wallach Division of Art, Prints and Photographs,
The New York Public Library, Astor, Lenox, and Tilden Foundations

Elbridge Gerry by James Barton Longacre, ca. 1820 (after a drawing by John Vanderlyn, 1798)
National Portrait Gallery, Smithsonian Institution/Art Resource, NY

James Jackson by Charles B. J. F  vret de Saint-M  min, 1805
National Portrait Gallery, Smithsonian Institution/Art Resource, NY

James Madison by Charles Willson Peale, ca. 1792
Gilcrease Museum, Tulsa, Oklahoma

Appendix

Image Credits

Roger Sherman by Ralph Earl, ca. 1775
Yale University Art Gallery

Thomas Tudor Tucker by Charles B. J F vret de Saint-M min, 1805
National Portrait Gallery, Smithsonian Institution/Art Resource, NY

The Senate Mark-up

Senate Revisions to the House Proposed Amendments to the U.S. Constitution, 1789
RG 46: Records of the U.S. Senate, National Archives

Close-Up on Compromise

Senate Revisions to the House Proposed Amendments to the U.S. Constitution, 1789
RG 46: Records of the U.S. Senate, National Archives

Proposed Amendments to the U.S. Constitution as Passed by the Senate, 1789
RG 46: Records of the U.S. Senate, National Archives

Journal of the Senate of the United States of America, First Session of the First Congress, 1789-1793,
Volume 1; Washington; Gales & Seaton, 1820

Join the Debate

Chambers in the House of Representatives, Federal Hall.
Conjectural drawing based on eyewitness descriptions, by William Hindley, ca. 1940
Prints and Photographs Division, Library of Congress

Time to Reflect

Bill of Rights, 1789
RG 11: General Records of the United States Government, National Archives

Appendix

Resources: Websites

The National Archives <http://www.archives.gov/>

Educational Resources from the National Archives <http://www.DocsTeach.org>

Educational Resources from the Center for Legislative Archives
<http://www.archives.gov/legislative/resources/index.html>

Educational Resources on the Bill of Rights from the Center for Legislative Archives
<http://www.archives.gov/legislative/resources/bill-of-rights.html>

The First Federal Congress Project <http://www.gwu.edu/~ffcp/>

Humanities Texas <http://www.humanitiestexas.org/>

The United States House of Representatives <http://www.house.gov/>

Educational Resources from The United States House of Representatives
<http://www.house.gov/content/educate/>

The United States Senate <http://www.senate.gov/>

The United States Senate Art and History Page
http://www.senate.gov/pagelayout/art/a_three_sections_with_teasers/art_hist_home.htm

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