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The Proceedings of Congress, September 1789

Senate Proceedings, Wednesday, 2 September 1789

The Resolve of the House of Representatives of the 24th of August, one thousand seven hundred and eighty nine, “That certain Articles be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States” —was taken into consideration—

And on motion, To amend this clause in the first Article, proposed by the House of Representatives, to wit:

“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 Representatives”—by striking out “one” and inserting TWO, between the words “amount” and “hundred”—

The Yeas and Nays being required by one fifth of the Senators present,

Mr. Bassett,		Nay.
Mr. Butler,		Nay.
Mr. Carroll,		Nay.
Mr. Dalton,	Yea.	
Mr. Ellsworth,		Nay.
Mr. Elmer,		Nay.
Mr. Gunn,	Yea.	
Mr. Grayson,	Yea.	
Mr. Henry,		Nay.
Mr. Johnson,		Nay.
Mr. Izard,		Nay.
Mr. King,	Yea.	
Mr. Lee,	Yea.	
Mr. Morris,		Nay.
Mr. Paterson,		Nay.
Mr. Read,		Nay.
Mr. Schuyler,	Yea.	
Mr. Wingate,		Nay.
Nays,		12.
Yeas,		6.

So it passed in the Negative.

On motion, To adopt the first Article, proposed by the Resolve of the House of Representatives, amended as follows, to strike out these words,—

“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 to every fifty thousand persons”—And to substitute the following clause after the words “One hundred,” to wit:

“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 one Representative shall be added for every subsequent increase of sixty thousand persons.”

It passed in the Affirmative.

The Senate adjourned to 11 o’clock to-morrow.

Senate Proceedings, Thursday, 3 September 1789 (excerpts)

The Senate assembled, Present as yesterday. And resumed the consideration of the Resolve of the House of Representatives of the 24th of August, upon the proposed Amendments to the Constitution of the United States. . . .

On motion, To amend the third Article, to read thus—

“Congress shall make no law establishing any particular denomination of religion in preference to another, or prohibiting the free exercise thereof, nor shall the rights of conscience be infringed”—

It passed in the Negative.

On the question upon the third Article as it came from the House of Representatives—

It passed in the Negative.

On motion, To adopt the third Article proposed in the Resolve of the House of Representatives, amended by striking out these words—

“Nor shall the rights of conscience be infringed”—

It passed in the Affirmative.

On the fourth Article it was moved to insert these words,—“To instruct their Representatives,” after the words “Common good”—

And the Yeas and Nays being required by one fifth of the Senators present,

Mr. Bassett,	Nay.
Mr. Carroll,	Nay.
Mr. Dalton,	Nay.
Mr. Ellsworth,	Nay.
Mr. Elmer,	Nay.
Mr. Grayson,	Yea.
Mr. Gunn,	Nay.
Mr. Henry,	Nay.
Mr. Johnson,	Nay.
Mr. Izard,	Nay.

Mr. King,		Nay.
Mr. Lee,	Yea.	
Mr. Morris,		Nay.
Mr. Paterson,		Nay.
Mr. Read,		Nay.
Mr. Wingate,		Nay.
Nays, ...		14.
Yeas, ...		2.
So it passed in the Negative.		

On motion, To insert these words after “Press,” — “In as ample a manner as hath at any time been secured by the common law” —

It passed in the Negative.

On motion, To strike out the words “And consult for their common good and,”

It passed in the Negative.

And it was agreed, that the further consideration of this Article be postponed. . . .

The Senate adjourned to 11 o’clock to-morrow.

Senate Proceedings, Friday, 4 September 1789

The Senate proceeded in the consideration of the Resolve of the House of Representatives of the 24th of August, on “Articles to be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States.”

On motion, To adopt the fourth Article proposed by the Resolve of the House of Representatives, to read as followeth,

“That Congress shall make no law, abridging the freedom of Speech, or of the Press, or the right of the People peaceably to assemble and consult for their common good, and to petition the Government for a redress of grievances,”

It passed in the Affirmative.

On motion, Upon the fifth Article, to subjoin the following proposition, to wit:

“That standing armies, in time of peace, being dangerous to Liberty, should be avoided as far as the circumstances and protection of the community will admit; and that in all cases the military should be under strict subordination to, and governed by the civil Power.—That no standing army or regular troops shall be raised in time of peace, without the consent of two thirds of the Members present in both Houses, and that no soldier shall be enlisted for any longer term than the continuance of the war.

And the Yeas and Nays being required by one fifth of the Senators present,

Mr. Butler,	Yea.	
Mr. Carroll,		Nay.
Mr. Dalton,		Nay.
Mr. Ellsworth,		Nay.
Mr. Elmer,		Nay.
Mr. Gunn,	Yea.	

Mr. Grayson,	Yea.	
Mr. Henry,	Yea.	
Mr. Johnson,		Nay.
Mr. King,		Nay.
Mr. Lee,	Yea.	
Mr. Paterson,		Nay.
Mr. Read,		Nay.
Mr. Schuyler,		Nay.
Mr. Wingate,	Yea.	

Nays, ... 9.
Yeas, ... 6.
So it passed in the Negative.

On motion, To adopt the fifth Article of the Amendments proposed by the House of Representatives, amended to read as followeth—

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

It passed in the Affirmative.

On motion, To adopt the sixth Article of Amendment proposed by the House of Representatives—

It passed in the Affirmative.

On motion, To adopt the seventh Article of Amendments proposed by the House of Representatives—

It passed in the Affirmative.

On motion, To adopt the eighth Article of Amendments proposed by the House of Representatives, striking out these words,—“Except in case of impeachment to more than one trial or one punishment,” and substitute the following words—

“Be twice put in jeopardy of life and limb by any public prosecution”—

It passed in the Affirmative.

On motion, To adopt the ninth Article of Amendments proposed by the House of Representatives—

It passed in the Affirmative.

On motion, To adopt the tenth Article amended by striking out all the clauses in the Article, except the following:

“No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment by a Grand Jury,”

It passed in the Affirmative.

On motion, To insert in lieu of the eleventh Article—

“The Supreme Judicial Federal Court, shall have no jurisdiction of causes between citizens of different States, unless the matter in dispute, whether it concerns the realty or personalty, be of the value of three thousand dollars, at the least: Nor shall the Federal Judicial Powers extend to any actions between citizens of different States, where the matter in dispute, whether it concerns the realty or personalty is not of the value of fifteen hundred dollars, at the least—And no

part, triable by a Jury according to the course of the common law, shall be otherwise re-examinable, than according to the rules of common law” —

It passed in the Negative.

On motion, To adopt the eleventh Article amended to read as follows—

“No fact, triable by a Jury according to the course of common law, shall be otherwise re-examinable in any court of the United States, than according to the rules of common law” —

It passed in the Affirmative.

The Senate adjourned until 11 o’clock on Monday morning.

Senate Proceedings, Monday, 7 September 1789

The Senate resumed the consideration of the Resolve of the House of Representatives of the 24th of August, on “Articles to be proposed to the Legislatures of the several States as Amendments to the Constitution of the United States.”

On motion, To adopt the twelfth Article of the Amendments, proposed by the House of Representatives, amended by the addition of these words to the Article, to wit: “Where the consideration exceeds twenty dollars,”

It passed in the Affirmative.

On motion, To adopt the thirteenth Article of the Amendments proposed by the House of Representatives—

It passed in the Affirmative.

On motion, To adopt the fourteenth Article of the Amendments proposed by the House of Representatives—

It passed in the Negative.

In the consideration of the fifteenth Article, proposed by the House of Representatives—

On motion, To add the following to the proposed Amendments, to wit:

“That the general Government of the United States ought never to impose direct taxes but where the monies arising from the duties, impost, 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” —

It passed in the Negative.

On motion, To add the following to the proposed Amendments, to wit:

“That the third section of the sixth Article of the Constitution of the United States, ought to be amended by inserting the word OTHER between the words “No” and “Religious” —

It passed in the Negative.

On motion, To add the following Amendment to the Constitution of the United States, to wit:

“That Congress shall not exercise the powers vested in them by the fourth Section of the first Article of the Constitution of the United States, but in cases where a State shall neglect or refuse to make regulations therein mentioned, or shall make regulations subversive of the Rights of the People, to a free and equal Representation in Congress, agreeably to the Constitution” —

It passed in the Negative.

On motion, To subjoin the following to the Amendments proposed by the House of Representatives, to wit:

“That Congress shall not erect any company of Merchants with exclusive advantages of Commerce” —

It passed in the Negative.

On motion, To subjoin the following to the Amendments proposed by the House of Representatives, to wit:

“That 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” —

It passed in the Negative.

On motion, To subjoin the following to the Amendments proposed by the House of Representatives, to wit:

“That no person, indebted to the United States, shall be entitled to a seat in either branch of the Legislature” —

It passed in the Negative.

On motion, To adopt the fifteenth Article of Amendments to the Constitution of the United States, proposed by the House of Representatives —

It passed in the Affirmative.

On motion, To adopt the sixteenth Article of Amendments to the Constitution of the United States, proposed by the House of Representatives —

It passed in the Negative.

On motion, To amend the seventeenth Article, by inserting the word, EXPRESSLY, before the word “delegated” —

It passed in the Negative.

On motion, To adopt the seventeenth Article of Amendments to the Constitution of the United States, proposed by the House of Representatives, to read as follows,

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.”

It passed in the Affirmative.

On motion, To amend the preamble of the Resolve —

A motion was made, To postpone the further consideration thereof until to-morrow — And,

It passed in the Affirmative.

The Senate adjourned to 11 o’clock to-morrow.

Senate Proceedings, Tuesday, 8 September 1789

The SENATE assembled,

Present as yesterday,

And proceeded in the consideration of the Resolve of the House of Representatives of the 24th of August, “On Articles to be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States.”

On motion, To amend the Preamble to the Amendments proposed by the House of Representatives by preceding the same as follows, to wit:

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

It passed in the Affirmative.

On motion, To amend the Preamble by striking out these words, lines 6th and 7th, “Deeming it necessary,” and inserting instead thereof “Concurring” —

It passed in the Affirmative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That 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” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

That all power is naturally vested in, and consequently derived from the people; that Magistrates, therefore, are their Trustees and Agents, and at all times amenable to them.”

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That Government ought to be instituted for the common benefit, protection, and security of the people; and that the doctrine of non-resistance against arbitrary power and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.”¹

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That no man or set of men are entitled to exclusive or separate public emoluments or privileges from the community, but in consideration of public services, which not being descendible, neither ought the offices of Magistrate, Legislator, or Judge, or any other public Officer to be hereditary.”

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That the Legislative, Executive, and Judiciary Powers of Governments 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 fixed 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” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That every freeman restrained of his liberty, is entitled to a remedy, to enquire into the lawfulness thereof and to remove the same, if unlawful, and that such remedy ought not to be denied nor delayed” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That every freeman ought to find a certain remedy by recourse to the laws, for all injuries and wrongs he may receive in his person, property, or character. He ought to obtain right and justice freely without sale, completely and without denial, promptly and without delay, and that all establishments or regulations contravening these rights, are oppressive and unjust” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That the members of the Senate and House of Representatives shall be ineligible to, and incapable of holding any civil office under the authority of the United States, during the time for which they shall respectively be elected” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That the journals of the proceedings of the Senate and House of Representatives shall be published, at least, once in every year, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That a regular statement and account of the receipts and expenditures of all public money shall be published, at least, once in every year” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That no commercial Treaty shall be ratified without the concurrence of two thirds of the whole number of the members of the Senate; and no Treaty, ceding, contracting, restraining or suspending the territorial rights or claims of the United States, or any of them or their, or any of their rights or claims to fishing in the American Seas, or navigating the American Rivers, shall be but in cases of the most urgent and extreme necessity; nor shall any such treaty be ratified without the concurrence of three fourths of the whole number of the members of both Houses respectively” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That no navigation law, or law regulating commerce, shall be passed without the consent of two thirds of the members present in both Houses” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

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

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That no soldier shall be enlisted for any longer term than four years, except in time of war, and then for no longer term than the continuance of the war” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That each State respectively shall have the power to provide for organizing, arming, and disciplining its own militia, whensoever Congress shall omit or neglect to provide for the same. That the militia shall not be subject to martial law, except when in actual service in time of war, invasion or rebellion; and when not in the actual service of the United States, shall be subject only to such fines, penalties, and punishments as shall be directed or inflicted by the laws of its own State” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That the exclusive power of Legislation given to Congress over the Federal Town, and its adjacent district, and other places purchased or to be purchased by Congress of any of the States, shall extend only to such regulations as respect the police and good Government thereof” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That no person shall be capable of being President of the United States, for more than eight years in any term of sixteen years” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That the Judicial Power of the United States shall be vested in one Supreme Court, and in such Courts of Admiralty as Congress may from time to time ordain and establish in any of the different States: The Judicial Powers shall extend to all cases in law and equity arising under treaties made, or which shall be made under the authority of the United States: to all cases affecting Ambassadors, other foreign Ministers and Consuls; to all cases of Admiralty and Maritime Jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; and between parties claiming lands under the grants of different States. In all cases affecting Ambassadors, other foreign Ministers and Consuls, and those in

which a State shall be a party, the Supreme Court shall have original jurisdiction; in all other cases before mentioned the Supreme Court shall have appellate jurisdiction as to matters of law only, except in cases of equity, and of Admiralty and Maritime Jurisdiction, in which the Supreme Court shall have appellate Jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make. But the Judicial Power of the United States shall extend to no case where the cause of action shall have originated before the ratification of this Constitution; except in disputes between States about their Territory, disputes between persons claiming lands under the grants of different States, and suits for debts due to the United States” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for Senators and Representatives, or either of them, except when the Legislature of any State shall neglect, refuse, or be disabled by invasion or rebellion, to prescribe the same” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That some tribunal, other than the Senate, be provided for trying impeachments of Senators” —

It passed in the Negative.

On motion, To add the following clause to the Articles of Amendment to the Constitution of the United States, proposed by the House of Representatives, to wit:

“That the salary of a Judge shall not be increased or diminished during his continuance in office, otherwise than by general regulations of salary, which may take place on a revision of the subject at stated periods of not less than seven years, to commence from the time such salaries shall be first ascertained by Congress” —

It passed in the Negative.

ORDERED, That the further consideration of the Resolve of the House of Representatives on the Articles of Amendment be postponed until to-morrow.

1. This provision opposing the doctrine of non-resistance appeared in the Maryland and New Hampshire declarations of rights. It was also included in the amendments proposed by the Virginia ratifying Convention in June 1788.

Senate Proceedings, Wednesday, 9 September 1789

The SENATE assembled,
Present as yesterday.

Proceeded in the consideration of the Resolve of the House of Representatives of the 24th of August, “On Articles to be proposed to the Legislatures of the several States as Amendments to the Constitution of the United States” — And

On motion, To amend Article the third, to read as follows:

“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 the press, or the right of the people peaceably to assemble, and petition to the Government for the redress of grievances” —

It passed in the Affirmative.

On motion, To strike out the fourth Article,

It passed in the Affirmative.

On motion, To amend Article the fifth, by inserting these words, “For the common defence.” next to the words “Bear arms” —

It passed in the Negative.

On motion, To strike out of this Article, line the second, these words, “The best,” and insert in lieu thereof “Necessary to the”

It passed in the Affirmative.

On motion, On Article the fifth, to strike out the word “Fifth,” after “Article the,” and insert “Fourth” —

And to amend the Article to read as follows,

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

It passed in the Affirmative.

On motion, To alter Article the sixth so as to stand Article the fifth, and Article the seventh so as to stand Article the sixth, and Article the eighth so as to stand Article the seventh —

It passed in the Affirmative.

On motion, That this last mentioned Article be amended to read as follows: “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” —

It passed in the Affirmative.

On motion, To strike out from the ninth Article the word “Ninth,” and insert eighth —

It passed in the Affirmative.

On motion, To strike out the tenth and the eleventh Articles —

It passed in the Affirmative.

On motion, To strike out of the twelfth Article the word “Twelfth,” and insert ninth —

It passed in the Affirmative.

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” —

It passed in the Affirmative.

On motion, To reconsider Article the tenth, and to restore these words, to wit:

“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 the Yeas and Nays being required by one fifth of the Senators present,

Mr. Bassett,	Yea.	
Mr. Carroll,		Nay.
Mr. Dalton,	Yea.	
Mr. Ellsworth,		Nay.
Mr. Grayson,	Yea.	
Mr. Gunn,	Yea.	
Mr. Henry,	Yea.	
Mr. Johnson,		Nay.
Mr. Izard,		Nay.
Mr. King,		Nay.
Mr. Lee,	Yea.	
Mr. Morris,		Nay.
Mr. Paterson,	Yea.	
Mr. Read,		Nay.
Mr. Schuyler,	Yea.	
Mr. Wingate,		Nay.
Yeas, ...		8.
Nays, ...		6.

So the question was lost.

On motion, To number the remaining Articles agreed to by the Senate, tenth, eleventh and twelfth, instead of the numbers affixed by the Resolve of the House of Representatives—

It passed in the Affirmative.

RESOLVED, That the Senate do concur in the Resolve of the House of Representatives, on “Articles to be proposed to the Legislatures of the States, as Amendments to the Constitution of the United States,” with the Amendments, two thirds of the Senators present concurring therein.

ORDERED, That the Secretary do carry a Message to the House of Representatives accordingly.
The Senate adjourned to 11 o’clock to-morrow.

House Proceedings, Thursday, 10 September 1789

A message was received from the senate, by mr. Otis, their secretary, informing the house, that the senate have agreed to the resolution of this house, of the 2d ultimo, containing certain articles to be proposed by congress, to the legislatures of the several states, as amendments to the constitution of the United States, with several amendments; to which they desire the concurrence of this house.

Newspaper Report of House Proceedings, Monday, 14 September 1789

The Senate sent down the bill to amend the Constitution of the United States, with amendments—Ordered that it lie on the table, and that copies of those amendments be printed for the use of the members.

Newspaper Report of House Proceedings, Tuesday, 15 September 1789

The house proceeded to consider the amendments made by the senate to the bill for amending the constitution of the United States; some of which they negatived and others they concurred in; but not having time to go thro' the same—adjourned.

House Proceedings, Saturday, 19 September 1789

The house then took into consideration the amendments to the constitution, as amended by the senate; and, after some time spent thereon, the business was postponed till to-morrow.

Senate Proceedings, Monday, 21 September 1789 (excerpts)

A Message from the House of Representatives—

Mr. Beckley, their Clerk, brought up a Resolve of the House of this date, to agree to the 2d, 4th, 8th, 12th, 13th, 16th, 18th, 19th, 25th, and 26th Amendments proposed by the Senate, “To Articles of Amendment to be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States,” and to disagree to the 1st, 3d, 5th, 6th, 7th, 9th, 10th, 11th, 14th, 15th, 17th, 20th, 21st, 22d, 23d, and 24th Amendments: Two thirds of the members present concurring on each vote: And “That a conference be desired with the Senate on the subject matter of the Amendments disagreed to,” and that Mr. Madison, Mr. Sherman, and Mr. Vining, be appointed managers of the same, on the part of the House of Representatives—

And he withdrew. . . .

The Senate proceeded to consider the Message of the House of Representatives disagreeing to the Amendments made by the Senate “To Articles to be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States”—And

RESOLVED, That the Senate do recede from their third Amendment, and do insist on all the others.

RESOLVED, That the Senate do concur with the House of Representatives in a conference on the subject matter of disagreement on the said Articles of Amendment, and that Mr. Ellsworth, Mr. Carroll, and Mr. Paterson, be managers of the conference on the part of the Senate.

ORDERED, That the Secretary do carry the Bill, entitled, “An Act for allowing a Compensation to the President and Vice President of the United States,” together “With the Articles to be proposed as Amendments to the Constitution of the United States,” to the House of Representatives, and acquaint them with the proceedings of the Senate thereon.

House Proceedings, Monday, 21 September 1789 (excerpts)

A farther message was received from the senate, informing the house, that the senate recede from their fourth amendment to the judges, and attorney-general's compensation bill; also, from their third amendment, to the articles of amendment to the constitution of the United States; and do insist on the other amendments to the said articles disagreed to by the house; that they have agreed to the conference on this subject. . . .

The house resumed the consideration of the amendments proposed by the senate to the several articles of amendments to the constitution of the United States; some of which they agreed to, and disagreed to others, two-thirds of the members present concurring in each vote:

Whereupon, a committee of conference was desired with the senate, on the subject matter of the amendments disagreed to; and messrs. Madison, Sherman, and Vining, were appointed managers on the part of the house.

Senate Proceedings, Thursday, 24 September 1789 (excerpts)

The SENATE assembled,
Present as yesterday.

Mr. Ellsworth, on behalf of the managers of the conference on “Articles to be proposed to the several States as Amendments to the Constitution of the United States,” reported as follows:

That it will be proper for the House of Representatives to agree to the said Amendments proposed by the Senate, with an Amendment to their fifth Amendment, so that the third Article shall read as follows: “Congress shall make no Law RESPECTING AN ESTABLISHMENT OF RELIGION, or prohibiting the free exercise thereof; or abridging the freedom of Speech, or of the Press; or the right of the People peaceably to assemble and petition the Government for a redress of Grievances.” And with an Amendment to the fourteenth Amendment proposed by the Senate, so that the eighth Article, as numbered in the Amendments proposed by the Senate, shall read as follows; “In all criminal prosecutions, the accused shall enjoy the right to a speedy 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, and to have compulsory process for obtaining witnesses in his favor, and to have the assistance of Counsel for his defence.”

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

ORDERED, That the Report lie for consideration. . . .

A Message from the House of Representatives—

Mr. Beckley, their Clerk, brought up the Amendments to the “Articles to be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States;” and informed the Senate, that the House of Representatives had receded from their disagreement to the 1st, 3d, 5th, 6th, 7th, 9th, 10th, 11th, 14th, 15th, 17th, 20th, 21st, 22d, 23d, and 24th Amendments, insisted on by the Senate: Provided, that the “Two Articles, which by the Amendments of the Senate are now proposed to be inserted as the third and eighth Articles,” shall be amended to read as followeth:

Article the Third. “Congress shall make no Law respecting an establishment of Religion, or prohibiting the free exercise thereof; or abridging the freedom of Speech, or of the Press; or the right of the People peaceably to assemble, and petition the Government for a redress of Grievances.”

Article the Eighth. “In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial Jury of the State and District, wherein the crime shall have been committed, which District shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have

compulsory process for obtaining witnesses in his favor, and to have the assistance of Counsel for his defence.”

And provided also, That the first Article be amended by striking out the words “Less”, in the last place of the said first Article, and inserting in lieu thereof the word “More.” . . .

And he withdrew.

House Proceedings, Thursday, 24 September 1789

The house proceeded to consider the report of a committee of conference, on the subject matter of the amendments, depending between the two houses, to the several articles of amendment to the constitution of the United States, as proposed by this house: Whereupon, it was resolved, that they recede from their disagreement to all the amendments; provided that the two articles, which, by the amendments of the senate, are now proposed to be inserted as the third and eighth articles, shall be amended to read as follows:

Art. 3. Congress, shall make no law respecting an establishment of religion, or prohibiting a free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Art. 8. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation—to be confronted with the witnesses against him—to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

And provided also, that the first article be amended by striking out the word “less,” in the last place of the said article, and inserting, in lieu thereof, “more.”

On the question, that the house agree to the alteration of the eighth article, in the manner aforesaid, the yeas and nays were called, and are:

Yeas—messrs. *Ames, Baldwin, Benson, Boudinot, Brown, Cadwallader, Carroll, Clymer, Contee, Fitzsimons, Foster, Gale, Gilman, Goodhue, Griffin, Hartley, Lee, Leonard, Madison, Moore, Muhlenberg, Parker, Partridge, Schureman, Scott, Seney, Sherman, Sylvester, Sinnickson, Smith, (of M.) Smith, (of S. C.) Stone, Thatcher, Trumbull, Vining, White and Wynkoop*—37.

Nays—messrs. *Bland, Burke, Coles, Floyd, Gerry, Grout, Hathorn, Jackson, Livermore, Matthews, Page, Van Rensselaer, Sumpter and Tucker*—14.

So the question was determined in the affirmative.

On motion, it was then resolved, that the president of the United States be requested to transmit to the executives of the several states which have ratified the constitution, copies of the amendments proposed by congress, to be added thereto; and like copies to the executives of the states of Rhode-Island and North-Carolina.¹

1. The Senate agreed to this resolution on 26 September (below). On 2 October President Washington sent a circular letter to the state executives enclosing Congress’ twelve amendments.

Senate Proceedings, Friday, 25 September 1789 (excerpts)

A Message from the House of Representatives—

Mr. Beckley, their Clerk, informed the Senate, that the House of Representatives had passed a Resolve, requesting, “The President of the United States to transmit to the Executives of the

several States, which have ratified the Constitution, copies of the Amendments proposed by Congress to be added thereto: And like copies to the Executives of the States of Rhode-Island and North-Carolina” —

And that the House requested the concurrence of the Senate therein: . . .

The Senate proceeded to consider the Message from the House of Representatives of the 24th, with Amendments to the Amendments of the Senate, to “Articles to be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States” — And

RESOLVED, That the Senate do concur in the Amendments proposed by the House of Representatives, to the Amendments of the Senate.

ORDERED, That the Secretary do carry a Message to the House of Representatives accordingly.

House Proceedings, Friday, 25 September 1789

A message was received from the senate, informing that the senate agree to the amendments proposed by this house, to their amendments to the several articles of amendment to the constitution of the United States.

Senate Proceedings, Saturday, 26 September 1789

The Senate proceeded to consider the Resolve of the House of Representatives of the 24th instant, to wit:

“In the HOUSE of REPRESENTATIVES,
Thursday the 24th September, 1789.

“RESOLVED, By the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested to transmit to the executives of the United States, which have ratified the Constitution, copies of the Amendments proposed by Congress, to be added thereto; and like copies to the executives of the States of Rhode-Island and North-Carolina.”

RESOLVED, That the Senate do concur in this Resolution.

ORDERED, That the Secretary do carry a Message to the House of Representatives accordingly.

House Proceedings, Monday, 28 September 1789 (excerpts)

A message from the senate was received, communicating to the house, that they had agreed to the resolution desiring the president of the United States to recommend a day of general thanksgiving: Also, to the resolution desiring him to transmit to the executives of the several states of the union; and also to the executives of the states of Rhode-Island and North-Carolina, copies of the amendments agreed to by congress to the constitution of the United States.¹ . . .

A number of bills, and the proposed amendments to the constitution, were brought in engrossed, and signed:

After which the house adjourned.

1. On 2 October 1789 President Washington sent a cover letter to each state with Congress’ twelve amendments. Washington wrote: “In pursuance of the enclosed resolution I have the honor to transmit to Your Excellency a copy of the amendments proposed to be added to the Constitution of the United States.”

U.S. Congress: Twelve Proposed Amendments to the Constitution
26 September 1789

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

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

RESOLVED by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following Articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all, or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution; vizt.

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

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

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

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

Article the fourth . . . A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

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

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

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

shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any Criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

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

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

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

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

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

Frederick Augustus Muhlenberg,
Speaker of the House of Representatives
John Adams, Vice-President of the United States,
and President of the Senate

ATTEST, John Beckley, Clerk of the House of Representatives.
Sam. A Otis Secretary of the Senate

House Committee Reports on Status of Amendments
20 May–29 July 1790

House Proceedings, Thursday, 20 May 1790

Mr. Steele laid the following motion, in substance, on the table. That a committee, to consist of a member from each state, be appointed to enquire into, and make report on the proceedings of the several states respecting the amendments proposed by Congress at their last session to the Constitution of the United States; also to report what further amendments are necessary; Mr. Steele added a few remarks to this motion which referred principally to the subject of elections, respecting which he said the “feelings of the people were tremblingly alive.”

House Proceedings, Thursday, 27 May 1790

Mr. Steele’s motion on the subject of amendments was taken up.

The motion was divided, and the first part, respecting the appointment of a committee to examine and report the decisions of the several states on the amendments proposed by Congress to the Constitution of the United States, was agreed to, and Mr. Steele, Mr. Moore, and Mr. Contee, were appointed. The other part, respecting additional amendments was negatived.

House Proceedings, Thursday, 27 May 1790

On a motion made and seconded,

“That a committee be appointed to examine into and report the decisions of the several States respectively, upon the Amendments to the Constitution of the United States, heretofore proposed by Congress; and that the committee be authorized to report what other and further amendments to the said Constitution are necessary to be recommended by Congress at present:”

A division of the said motion was called for: Whereupon,

The first part of the said motion, in the words following, to wit: That a committee be appointed to examine into and report the decisions of the several States, respectively, upon the amendments of the Constitution heretofore proposed by Congress,” was, on the question put thereupon, agreed to by the House.

The latter part of the said motion, in the words following, to wit: “And that the committee be authorized to report what other and further amendments to the said Constitution, are necessary to be recommended by Congress at present,” was, on the question put thereupon, disagreed to by the House.

Ordered, That Mr. Steele, Mr. Moore, and Mr. Contee, be appointed a committee pursuant to the first part of the said motion.

The several orders of the day were read, and postponed until to-morrow.

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

House Proceedings, Wednesday, 28 July 1790

Mr. Tucker moved that some order be taken upon the amendments to the present constitution, as proposed by the several states. This motion lies over.

House Proceedings, Thursday, 29 July 1790

Mr. Steel, one of the committee appointed to examine into the proceedings of the several states, on the subject of the amendments proposed by Congress to the Federal Constitution, reported that returns have been made by the eight states only, viz.

1st. A vote of the legislature of New-Hampshire, rejecting the second article of the said amendments and accepting all the rest.

2d. An act for the legislature of New-York, intitled, “An act for ratifying certain articles in addition to, and amendments of the constitution of the United States of America” proposed by Congress, whereby all the said articles, except the 2d are ratified.

3d. An act of the legislature of Pennsylvania, intitled, “An act declaring the assent of this state, to certain amendments of the constitution of the United States” whenever the 1st and 2d articles are passed, over in silence and all the others assented to.

4th. A resolution of the legislature of the state of Delaware, postponing the first article, and acceding to all the others.

5th. An act of the legislature of Maryland, entituled, “an act to ratify certain articles in addition to, and amendment of the constitution of the United States of America, proposed by Congress to the legislatures of the several states,” ratifying all the said articles.

6th. A resolution of the legislature of South Carolina, ratifying all the said articles.

7th. An act of the state of North-Carolina, intituled, “an act to ratify the amendments to the constitution of the United States,” ratifying all the said articles.

8th. An act of the state of Rhode-Island and Providence Plantations, intituled, “an act for ratifying certain articles as amendments to the constitution of the United States of America, and which were proposed by the Congress of the said states at their session in March, A.D. 1789, to the legislatures of the several states, pursuant to the 5th article of the aforesaid constitution,” whereby the whole of the said articles are assented to.

So that upon the whole it appears, that the first article has been agreed to by six states, the second by five, and all the others by eight.

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