Introduction: Amendments Proposed by State Ratifying Conventions

Article V of the Constitution provides for the process of proposing and adopting amendments to the Constitution. Nothing in the Constitution prohibited the consideration or proposal of amendments by the state ratifying conventions. Federalists, however, argued that state conventions should not and could not propose amendments and that the entire Constitution en masse needed to be either ratified or rejected. Much of the debate over ratifying the Constitution centered on the issue when amendments should be considered—before ratification or after the Constitution was adopted and implemented—and the issue of how amendments would be proposed by either Congress or a second constitutional convention.

Antifederalists in the Pennsylvania ratifying convention (the first convention to sit) proposed amendments to the Constitution that they wanted the people to consider while the Convention recessed. Federalists, however, rejected this proposal and would not allow the amendments to appear on the Convention journal. Antifederalists published the amendments as part of the Dissent of the Minority of the Pennsylvania Convention that was printed and circulated widely as a broadside and in newspapers.

No amendments were proposed from the first five state conventions (Pennsylvania, Delaware, New Jersey, Georgia, and Connecticut). After three weeks of debate in the Massachusetts Convention, the sixth convention to sit, Federalists realized that the Constitution would be rejected without amendments. Consequently Federalists proposed a new method of ratification in which the Convention would ratify the Constitution unconditionally, but with recommendatory amendments that would be proposed in the first federal Congress according to Article V of the Constitution. With this proposal and nine recommendatory amendments, the Massachusetts Convention narrowly ratified the Constitution. Six of the remaining seven states followed Massachusetts' example in proposing recommendatory amendments. Only the Maryland Convention, against the wishes of a vocal minority of Antifederalists, refused to approve recommendatory amendments.

All totaled 292 amendments were proposed. Eliminating duplicates, 102 individual amendments were recommended. Starting with the Virginia Convention, the amendments were divided into two lists—one that included rights-type amendments and another that listed structural changes to the Constitution. James Madison used the rights-type amendments when he prepared the amendments that he submitted to the U.S. House of Representatives in June 1789.

In the fall of 1788, Augustine Davis, the printer of the *Virginia Independent Chronicle* and the postmaster of Richmond, published a thirty-two page pamphlet entitled *The Ratification of the New Fœderal Constitution, Together with the Amendments, Proposed by the Several States.*

After the title, Davis included a statement that "This Collection was made at the instance of several Gentlemen, who supposed, that it would be useful and acceptable to the Public, to be able to compare at once the sentiments of the different States together." The pamphlet contains the forms of ratification of eight states along with their proposed amendments. In a prefatory statement, Davis indicated that he omitted the ratifications by Pennsylvania, Delaware, New Jersey, Georgia, and Connecticut "being unconditional, and not even proposing an amendment." He naturally could not include the amendments proposed by the second North Carolina Convention that ratified the Constitution on 21 November 1789 and the Rhode Island Convention that ratified on 29 May 1790. Davis was probably encouraged to print the pamphlet at the urging of Edmund Randolph, a staunch advocate of a second general convention to consider amendments to the Constitution. Randolph wrote to James Madison on 12 September 1788 saying "I desired Davis to make a collection, of which the inclosed is a copy." About a month later, on 17 October, Madison wrote to Thomas Jefferson, then serving as U.S. minister to France, enclosing a "little pamphlet" that provided "a collective view of the alterations which have been proposed for the new Constitution."

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