

The Bill of Rights

Handout 2: James Madison's Proposed Amendments to the Constitution, June 8, 1789

Source: *Annals of Congress*, House of Representatives, 1st Congress, 1st Session, June 8, 1789, p. 451-53, Washington, DC: Gales and Seaton, 1834.

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First. That there be prefixed to the Constitution a declaration, that all power is originally vested in, and consequently derived from, the people. That Government is instituted and ought to be exercised for the benefit of the people; which consists in the enjoyment of life and liberty, with the right of acquiring and using property, and generally of pursuing and obtaining happiness and safety. That the people have an indubitable, unalienable, and inalienable right to reform or change their Government, whenever it be found adverse or inadequate to the purposes of its institution.

Secondly. That in article 1st, section 2, clause 3, these words be struck out, to wit: "The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative, and until such enumeration shall be made;" and that in place thereof be inserted these words, to wit: "After the first actual enumeration, there shall be one Representative for every thirty thousand, until the number amounts to ----, after which the proportion shall be so regulated by Congress, that the number shall never be less than ----, nor more than ----, but each State shall, after the first enumeration, have at least two Representatives; and prior thereto."

Thirdly. That in article 1st, section 6, clause 1, there be added to the end of the first sentence, these words, to wit: "But no law varying the compensation last ascertained shall operate before the next ensuing election of Representatives."

Fourthly. That in article 1st, section 9, between clauses 3 and 4, be inserted these clauses, to wit: The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed.

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

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

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

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

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Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. The rights of the people to be secured in their persons, their houses, their papers, and their other property, from all unreasonable searches and seizures, shall not be violated by warrants issued without probable cause, supported by oath or affirmation, or not particularly describing the places to be searched, or the persons or things to be seized.

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

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

Fifthly. That in article 1st, section 10, between clauses 1 and 2, be inserted this clause, to wit: No State shall violate the equal rights of conscience, or the freedom of the press, or the trial by jury in criminal cases.

Sixthly. That, in article 3d, section 2, be annexed to the end of clause 2d, these words, to wit: But no appeal to such court shall be allowed where the value in controversy shall not amount to ---- dollars: nor shall any fact triable by jury, according to the course of common law, be otherwise re-examinable than may consist with the principles of common law.

Seventhly. That in article 3d, section 2, the third clause be struck out, and in its place be inserted the clauses following, to wit: The trial of all crimes (except in cases of impeachments, and cases arising in the land or naval forces, or the militia when on actual service, in time of war or public danger) shall be by an impartial jury of freeholders of the vicinage, with the requisite of unanimity for conviction, of the right of challenge, and other accustomed requisites; and in all crimes punishable with loss of life or member, presentment or indictment by a grand jury shall be an essential preliminary, provided that in cases of crimes committed within any county which may be in possession of an enemy, or in which a general insurrection may prevail, the trial may by law be authorized in some other county of the same State, as near as may be to the seat of the offence. In cases of crimes committed not within any county, the trial may by law be in such county as the laws shall have prescribed. In suits at common law, between man and man, the trial by jury, as one of the best securities to the rights of the people, ought to remain inviolate.

Eighthly. That immediately after article 6th, be inserted, as article 7th, the clauses following, to wit: The powers delegated by this Constitution are appropriated to the departments to which they are respectively distributed: so that the Legislative Department shall never exercise the powers vested in the Executive or Judicial, nor the Executive exercise the powers vested in the Legislative or Judicial, nor the Judicial exercise the powers vested in the Legislative or Executive Departments.

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

Ninthly. That article 7th be numbered as article 8th.