

Handout A: Refining the Bill of Rights: Madison's Proposals

Directions:

James Madison drafted his list of recommended amendments to the Constitution by studying the amendments that had been proposed in the state ratification conventions. Review the following excerpts from Madison's proposed amendments in his June 8 speech in Congress, and rewrite each one in your own words in Column B. Then answer this question: If you were a member of Congress in 1789, which, if any, of the following amendments would you vote to include in the recommendations sent to the states for ratification? Place a check in Column C for each amendment you would vote to support; for each amendment, explain why you would or would not support it. In Column D, note where, if at all, each of the proposals is located in our Founding documents.

Madison's Proposed Amendments (Excerpts)	In Your Words	Would you recommend as a member of your assigned delegation? Why or why not?	Connections to Founding Documents
1. 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.			
2. 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.			
3. But no law varying the compensation last ascertained shall operate before the next ensuing election of representatives.			

4. 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.			
5. The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable.			
6. The people shall not be restrained from peaceably assembling and consulting for their common good, nor from applying to the legislature by petitions, or remonstrances for redress of their grievances.			
7. 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.			
8. No soldier 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.			

9. No person shall be subject, except in cases of impeachment, to more than one punishment, or one trial for the same office; 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.			
10. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.			
11. 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.			
12. 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 defense.			

13. 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.			
14. No state shall violate the equal rights of conscience, or the freedom of the press, or the trial by jury in criminal cases.”			
15. 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.			
16. 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.			
17. 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.			
18. 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.			
19. The powers not delegated by this constitution, nor prohibited by it to the states, are reserved to the States respectively.			

Analysis Questions

1. To what extent, if at all, do you agree that the Founders arrived at a good process for amending the Constitution?
2. To what extent do you agree with the results of this process with respect to the first ten amendments?
3. To what extent did you have to compromise with your group and with the class in this activity?