

## Handout E: The United States Bill of Rights, December 15, 1791

**Directions:** Compare this list to **Handout B**. Put a check in Column E to show each of Madison's proposed amendments that was adopted by the states. Also include the Amendment number on the **Handout B** table.

**ARTICLE I** 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 assembly, and to petition the Government for a redress of grievances.

**ARTICLE II** 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 III** 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 IV** 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 V** 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 VI** 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 VII** 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 VIII** Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

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**ARTICLE IX** The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

**ARTICLE X** 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.

### Critical Thinking Questions

1. Which of Madison's proposed amendments, if any, do you think should have been adopted as part of the final Bill of Rights?
  2. What other amendments, if any, do you think should have been adopted?
  3. The first two of the amendments sent to the states for ratification in September of 1789 were not ratified by the states.
    - a. To what extent do you think the first one, (quoted below) would be a good idea? Congress set the size of the House at 435 in The Apportionment Act of 1911.
      - i. *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 not be 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.*
    - b. If the formula of one representative for every 50,000 persons were still in effect today, how large would the House of Representatives be?
  4. Compare the second amendment sent to the states in September of 1789 to the Twenty-seventh Amendment, which was ratified in 1992.
    - a. *Article the Second. – No Law varying the Compensations for the Services of the Senators and Representatives shall take Effect, until an Election of Representatives shall have intervened.*
    - b. Amendment 27, ratified 1992 – No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.
- See **Handout F** for the story of Amendment 27.
5. In paragraphs 5, 6, and 7 of Madison's proposed amendments are points that the House of Representatives did not approve as constitutional amendments. What do these proposals have in common and how are they different from the proposals that the House approved?
  6. How is the proposition in paragraph 21 different from the other guarantees?
  7. The House of Representatives approved 17 amendments and the Senate approved 12. Generally speaking, is that because the Senate approved fewer rights than the House, or because the rights were combined differently?