

The Constitutional Convention

A chief aim of the Constitution as drafted by the Convention was to create a government with enough power to act on a national level, but without so much power that fundamental rights would be at risk. One way that this was accomplished was to separate the power of government into three branches, and then to include checks and balances on those powers to assure that no one branch of government gained supremacy. This concern arose largely out of the experience that the delegates had with the King of England and his powerful Parliament. The powers of each branch are enumerated in the Constitution, with powers not assigned to them reserved to the States.

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Much of the debate, which was conducted in secret to ensure that delegates spoke their minds, focused on the form that the new legislature would take. Two plans competed to become the new government: the Virginia Plan, which apportioned representation based on the population of each State, and the New Jersey plan, which gave each State an equal vote in Congress. The Virginia Plan was supported by the larger States, and the New Jersey plan preferred by the smaller. In the end, they settled on the Great Compromise (sometimes called the Connecticut Compromise), in which the House of Representatives would represent the people as apportioned by population; the Senate would represent the States apportioned equally; and the President would be elected by the Electoral College. The plan also called for an independent judiciary.

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James Madison introduced 12 amendments to the First Congress in 1789. Ten of these would go on to become what we now consider to be the Bill of Rights. Based on the Virginia Declaration of Rights, the English Bill of Rights, the writings of the Enlightenment, and the rights defined in the Magna Carta, the Bill of Rights contains rights that many today consider to be fundamental to America.

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The First Amendment provides that Congress make no law respecting an establishment of religion or prohibiting its free exercise. It protects freedom of speech, the press, assembly, and the right to petition the Government for a redress of grievances.

The Second Amendment gives citizens the right to bear arms.

The Third Amendment prohibits the government from quartering troops in private homes, a major grievance during the American Revolution.

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The Fourth Amendment protects citizens from unreasonable search and seizure. The government may not conduct any searches without a warrant, and such warrants must be issued by a judge and based on probable cause.

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The Fifth Amendment provides that citizens not be subject to criminal prosecution and punishment without due process. Citizens may not be tried on the same set of facts twice and are protected from self-incrimination (the right to remain silent). The amendment also establishes the power of eminent domain, ensuring that private property is not seized for public use without just compensation.

The Sixth Amendment assures the right to a speedy trial by a jury of one's peers, to be informed of the crimes with which one is charged, and to confront the witnesses brought forward by the government. The amendment also provides the accused the right to compel testimony from witnesses, as well as the right to legal representation.

The Seventh Amendment provides that civil cases preserve the right to trial by jury.

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The Eighth Amendment prohibits excessive bail, excessive fines, and cruel and unusual punishments.

The Ninth Amendment states that the list of rights enumerated in the Constitution is not exhaustive, and that the people retain all rights not enumerated.

The Tenth Amendment assigns all powers not delegated to the United States, or prohibited to the States, to either the States or to the people.