

# Civil Rights & Citizenship

## OBJECTIVES

- Describe how the Bill of Rights became part of the Constitution.
- Explain why the Bill of Rights are so important.

Why was a list of citizens rights left OUT of the Constitution?

- Framers thought it was unnecessary
- Believed that the Constitution already guarded against tyranny by limiting the government's power

Anti-Federalists

- Disagreed and put up a HUGE fight
- Constitution might not have been ratified if Bill of Rights not promised to be included
  - In the form of amendments

Adding a Bill of Rights was a CRUCIAL step towards gaining support for Constitution and new U.S. government

Also the first test of the amendment process

## AMENDMENT PROCESS:

Constitution requires that any amendment must be approved at both the national and state levels

Amendment is first approved at national level – by Congress usually

- Then Amendment is taken to the states for approval
- States either ratify it or reject it

Two ways to propose an Amendment to the states:

- 1) Amendment has passed with 2/3 vote in both the Senate and the House of Reps
  - All 27 Amendments thus far have been proposed this way

- 2) Amendment may also be proposed by a national convention called for by two-thirds of state legislatures

- This method never been used

Once an Amendment is proposed there are two ways for states to ratify it

- 1) approval by the legislatures of three-fourths ( $\frac{3}{4}$ ) of the states
- 2) approval by special conventions in three-fourths ( $\frac{3}{4}$ ) of the states.

Congress chooses which method to be used

Amendment process takes a LONG TIME

- Has to gain such widespread support

# Bill of Rights - 1789

Congress debates Bill of Rights

- Amendment process began in Congress

James Madison

- Member of the House of Reps
- He declared that the Articles in Constitution did not adequately protect the rights of citizens
- Bill of Rights would be responding to the people's will and earning their trust
  - This would lay a firm foundation for the new government

Congress disagrees

- Impatient to begin passing laws
- Wanted to firmly set the young U.S. government on its feet
- Madison agreed to wait
  - But he also urged Congress to prepare Bill of Rights as soon as possible

Two months later...August 1789...members of Congress began preparing the amendments

- Much debate, heated debate
- Bill of Rights drawn from statements made in a variety of documents:

Magna Carta, English Bill of Rights, Virginia's Declaration of Rights

Bill of Rights

- Congress decides to attach the list of rights at the END of the document
  - Did not want to give them the same importance as the rest of the Constitution

## **PROPOSAL and RATIFICATION:**

After the debates in Congress, a committee writes final versions of twelve amendments

- This includes the ten that protected citizens rights (Bill of Rights)
- Congress approved the amendments and proposed them to the states in 1789

Amendments were welcome by those who did not trust the new government

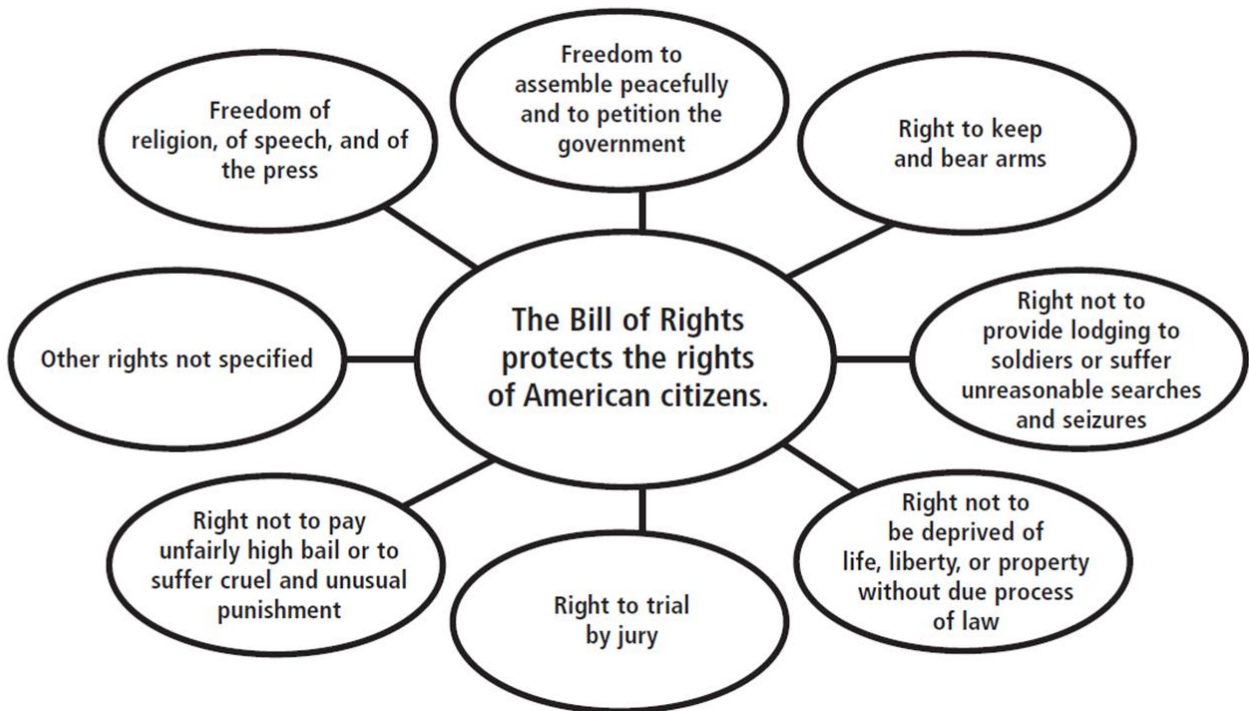
Two of the twelve failed to get support

- Proposal to increase size of House of Reps
- Proposal to limit when Congress might raise its salaries

By December 15, 1791, the states had ratified the Bill of Rights.

The ten amendments had become a part of the Constitution.

# Bill of Rights



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## OBJECTIVES

- **Define the Freedoms that are protected by the First Amendment.**
- **Summarize the amendments that protect against abuse of power by the government.**
- **Explain how the rights of the accused are protected by the Bill of Rights.**
- **Describe the rights protected by the Ninth and Tenth Amendments.**

The ten amendments known as the Bill of Rights spell out the basic rights that are protected under our form of government.

These rights fall into three main categories:

- Individual freedoms
- Protections against government abuse of power
- Rights of citizens accused of crimes

What would life be like if...

...you could be arrested for criticizing a government official

...the government could decide which books or magazines may be published and which movies or television shows you may watch

...daily newspapers could publish no articles critical of the government and no political cartoons that poke fun at government officials

...a person could be jailed because of religious beliefs

### **First Amendment:**

#### **5 basic freedoms:**

1. *Freedom of Speech*
2. *Freedom of the Press*
3. *Freedom of Religion*
4. *Freedom of Petition*
5. *Freedom of Assembly (or Association)*

### **First Amendment:**

- **Freedom of speech**
  - “This is a free country, so I can say what I want.”
- As an American, you have the right to speak and write freely, to say what you believe.
- Does this mean you may say anything? Whenever and wherever you please?
  - NO!
  - You are not free to slander another person
    - *Slander*: telling lies that may damage another person’s reputation
  - You are free to express opinions, and to write or say things no matter how unpopular
- **Freedom of the Press**
  - Prevents the government from deciding what may be printed.
  - Guarantees that people may criticize the government without fearing arrest.
  - You can get information and hear different opinions.
  - In many countries today, government controls newspapers, radio, television
- Limits of Freedom of Press
  - *Libel*: printing lies about a person
    - this would unfairly damage reputation
  - Endangering the lives of people
- **Freedom of religion**
  - Every American is free to follow the religion of his or her choice, or not to practice any religion at all.
  - Separation of church and state:
    - The situation in which the government may not favor any religion or establish an official religion.
    - Religion may never be used as a test for deciding who may hold office or vote.
      - This is the first time in history that a government has done this.

- **Freedom of Petition**

“I don’t like that law, but there is nothing I can do about it.”

- A citizen or group of citizens has the right to ask a government representative to change a law, or make a new law, or to solve problems that arise.
- *Petition*: a request signed by many citizens

- **Freedom of Assembly (or Association)**

- Right to assemble or meet together
  - Demonstrations or protests
    - Must be peaceful
    - Must not violate the rights of other citizens

Second, Third, Fourth, and Fifth Amendments protect citizens from abuse of power

- Abuse by police, judges, or by any other government official

- **Second Amendment:**

- Gun ownership

*“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.”*

- The role of the militia
- Does the government have the right to restrict the sale and use of guns?

- **Third Amendment**

- During colonial period, England had allowed British soldiers to use colonists homes as living quarters
- Third amendment states that owners consent must be granted first...during peacetime
- During wartime, an act of congress may allow the use of citizen’s homes as soldiers quarters

- **Fourth Amendment**

- Officers cannot search a citizen, citizen’s belongings, or a citizen’s home without a valid reason.
- Search warrant - Officers convince a judge that they are likely to find evidence of a crime

“Reasonable suspicion” or “probable cause”

“In plain sight” or “in plain view”

- **Fifth Amendment**

- Can the government take away your property to build a freeway, subway, or other public project?

YES!

- *Eminent domain*: the power to take private property for public use
- Protection against this power: government must pay owners a fair price for their property

- Arrests

“You have the right to remain silent. Anything you say can and will be used

against you in a court of law. You are entitled to have an attorney present when you are questioned. If you cannot afford an attorney, one will be appointed for you at public expense.”

#### Miranda Rights

- 1966 Supreme Court decision
- man arrested without being informed of his rights. As a result, police must now state the Miranda warning to anyone they arrest.
  
- Arrests  
“You have the right to remain silent. Anything you say can and will be used against you in a court of law. You are entitled to have an attorney present when you are questioned. If you cannot afford an attorney, one will be appointed for you at public expense.”

Nobody may be forced “to be a witness against myself.”

- Plead the Fifth  
“I refuse to answer on the grounds that it may incriminate me or make me appear guilty.”
- Confessions – must be freely given – no torture, pressure

*Double jeopardy*: being placed on trial twice for the same crime

Rights of the accused stated in 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Amendments

- No person could be deprived of life, liberty, or property except by the “law of the land”
- *Due process of law*: process by which the government must treat accused persons fairly according to rules established by law
- Accused persons have rights under the Constitution
  
- **Sixth and Seventh Amendments**
  - Right to a speedy, public, and fair trial in any case involving a crime
  - Person may not be tried in secret or kept in jail for a long time awaiting trial
  - Accused person has the right to advice from a lawyer
  - Right to know what the accusations are and to ask questions of any witnesses during the trial
  - Seventh Amendment...says this pertains to civil cases as well...those involving money over \$20
  
- **Eighth Amendment**
  - Protects accused persons from unfair treatment both before and after a trial
  - *Bail*: a certain amount of money deposited to the court for freedom...pledge that he/she will appear at trial

Bail can't be unfairly high

Bail is returned when he/she appears at the trial

- Cruel and Unusual Punishments

Whipping, branding, and other physical punishments

Is the death penalty cruel and unusual?

- **Ninth, Tenth Amendment**

- 9<sup>th</sup> – states that citizens rights are not limited to the ones in the Constitution
- 10<sup>th</sup> – Describes which powers Congress has and does not have, and which powers are denied to the states

Powers not mentioned in Constitution belong to the state governments or to the people

# Interpreting the Bill of Rights

Consider these questions:

*Is a school principal violating students' rights when he or she censors an article that was written for a school newspaper?*

*Does a person have a right to make a speech that causes listeners to riot, causing injury to others and damaging public and private property?*

- Interpreting the Constitution and Amendments
  - Often difficult
    - First ten amendments are BROAD descriptions of certain rights
      - Not intended to explain rights pertaining to every situation
    - Sometimes certain rights have to be weighed against other rights

Judges are legal experts

It is a judge's job to interpret citizen's rights

- Decide whether rights are violated by other citizens or other laws

*Case studies:* descriptions of situations or conflicts, the issues involved, and the decisions that were made.

## The Tinker Case

- December 16, 1965
- Des Moines, Iowa
- Two students (13 year old Mary Beth Tinker and 16 year old Christopher Eckhardt) came to school wearing black arm bands.

Mary Beth's brother John came to school the next day with arm band.

Why?

The students were protesting the Vietnam War.

- Two questions raised:
  - 1) What is meant by speech in freedom of speech?
  - 2) What rights do students have under the Constitution?
- Des Moines officials announced that arm bands would be forbidden when first learned about the planned protest.

Students wore them anyway

They were suspended as a result

- Tinker's parents argued that the school board was denying First Amendment rights to free speech

Students had not disrupted class or harmed others or interfered with other students' rights

School defended the rule, saying that it preserved discipline...school is not a place for political demonstrations

- The case came first to local court

Judge ruled that arm band rule was necessary to avoid disruption of classes

Higher court affirmed the school district's decision

Students appealed to Supreme Court

- Supreme Court heard the case and ruled in favor of the students
- It held that arm bands were a form of "speech" because they were symbols representing ideas
- Protest was also protected because it had not interfered with student's right to education
- Students DO have a basic right to free speech





## The Skokie Case

May, 1977 – Skokie, Illinois

A group of uniformed Neo-Nazi men applied to march through Skokie

- 40,000 Jews lived within the town...many were Holocaust survivors

Skokie officials wanted to prevent the march from taking place

- Informed the Nazi's that they would have to \$350,000 of insurance before a permit of march would be issued –this blocked the Nazi march
- Nazi's planned a rally to protest this, but county court said they could not demonstrate

- Court said anyone who wore a Nazi uniform, displayed a swastika, or distributed material promoting hatred could not demonstrate or march
- Court battle begins

*Does the First Amendment protect even Nazis and messages of hatred?*

- ACLU gets involved
  - Asked a basic question:  
*If the government may deny freedom of expression to one group, what will prevent it from denying that right to any other group?*
    - Jewish member of ACLU:  
*"The First Amendment has to be for everyone-or it will be for no one."*
- June 14, 1977
  - Supreme Court decides to hear case
  - Rules in favor of Nazis – allow them to march in Skokie and wear the swastika
  - Swastika as a symbol, cannot be banned – the symbol is a form of free speech.

Key questions:

1. Should symbols that represent hate-speech be banned?
2. Who gets to decide what is hate speech?

3. What would happen if all “offensive” speech is banned?

