



LESSON 7



The Bill of Rights

Critics felt the Constitution was not clear enough in protecting individual rights and liberties. To quiet them, supporters of the Constitution promised to introduce a series of amendments listing these rights. On September 25, 1789, James Madison kept this promise by proposing twelve amendments to the Constitution. The ten amendments that were adopted are known as the **Bill of Rights**.

AMENDMENT 1

Freedom of Religion, Speech, Press; Rights to Assembly and Petition (1791)

This amendment sets out each citizen's basic **civil rights** that are guaranteed by the government. For this reason, the **First Amendment** is perhaps the most important and best-known amendment.

An *established* religion is one the government sets as an official religion. At the time of the Revolution, the Anglican Church was England's official religion. Other religions were not treated fairly. The framers saw people of many different faiths settling in America and believed that religious freedom was a must.

Under British rule, the colonists had experienced both censorship and repression. This convinced them that the Constitution must guarantee both freedom of speech and freedom of the press. People must be free to question the government, express themselves, and exchange information without fear of harm or arrest.

There are some limits, though. Slander, for example, is forbidden. **Slander** is *saying* a lie that is meant to damage another person's reputation. Slander that is *published* is called **libel**. Saying or printing things that would endanger the nation or public is also forbidden. Publishers, for example, cannot print military secrets. People cannot yell "Fire" in a crowded theater simply for the thrill of it.

The right to assembly means that people can hold meetings to discuss public issues. The right to petition government for redress means that the people can ask government to correct a wrongful situation. These rights let citizens influence government peaceably.

In the United States, citizens are guaranteed the freedom to worship as they wish by the First Amendment.

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 assemble, and to petition the government for a redress of grievances.





AMENDMENT 2

Right to Bear Arms (1791)

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 leaders of the states wanted to be able to protect themselves. Thus, private citizens and citizens serving in state militias have a right to be armed.

To some, this means government cannot interfere with gun owners. The courts have generally ruled, though, that government can pass laws to control the possession of weapons. For example, private citizens cannot own some kinds of weapons, such as machine guns. Also, both federal and state laws determine who can be licensed to own firearms. People with criminal records, for example, cannot be licensed to own guns.



AMENDMENT 3

Keeping Troops in Private Homes (1791)

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.

This amendment was meant to prevent the problems that resulted when the British tried to **quarter**, or house, troops in colonists' homes. In national emergencies, though, special laws can be passed to order the temporary housing of troops.



AMENDMENT 4

Search and Seizure (1791)

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.

Amendments 4 to 8 protect the rights of persons accused of crimes. The American legal system is guided by the idea that each person is "innocent until proven guilty." Thus, government tried to protect the accused person's rights throughout the criminal investigation.

This amendment protects the right to privacy. Law officers must follow strict guidelines before they can violate this privacy. Searches of private homes, for example, must be authorized by a judge, who issues a **search warrant**. To get a search warrant, law officers must show probable cause. **Probable cause** means the search is likely to uncover evidence concerning a crime. The search warrant must be very specific, though, and describe the place to be searched and what is being searched for. The courts have ruled that even illegal items found during an unauthorized search cannot be used as evidence during a trial.



AMENDMENT 5



Rights of Persons Accused of a Crime (1791)

Because of television and movies, taking the “Fifth Amendment,” or refusing to testify against yourself, is one of the best-known rights under the Constitution. This is just one of the important protections this amendment provides persons accused of crimes.

No one can be tried for a major crime unless they are indicted, or charged, by a grand jury. A **grand jury** decides if there is good reason to believe the accused person is guilty. The exception is someone who is serving in the military and accused of committing a crime during a military action.

Citizens are also protected from double jeopardy. **Double jeopardy** means a citizen is at risk, or jeopardy, for trial a second time, even if he or she is found innocent in the first trial. Of course, people who are found guilty can appeal, or ask a higher court to decide if there was an error in the first trial.

No one can be imprisoned, executed, or have property taken without due process. **Due process** refers to the guidelines that protect a person’s rights during legal proceedings.

Finally, the amendment limits **eminent domain**—the government’s power to take private property for public use. If property is needed for a highway, for example, the government must prove it is needed and pay the owner a fair price.

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 offense 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.



AMENDMENT 6



Right to a Fair and Speedy Trial (1791)

In England, people accused of crimes were held, sometimes for years, without ever standing trial. The right to a “speedy trial” simply means the accused will not have to wait very long before a hearing.

There are also guidelines to ensure the trial is fair. The jury must swear to be objective and fair in weighing the evidence. The accused must be told the exact charges, so that he or she can prepare a proper defense before the trial. The trial itself cannot be secret. It—and the testimony witnesses give—must be public. The accused must be present at the trial and have a chance to question witnesses. The accused can also call witnesses to testify on his or her behalf. Finally, the accused has the right to be represented by a lawyer, even during questioning about a crime.

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 defense.



The fifth and sixth amendments protect individuals accused of crimes. Citizens have the right to due process, are protected from double jeopardy, are entitled to fair and speedy trials, and are guaranteed a public trial by jury.

AMENDMENT 7

Trial by Jury in Civil Suits (1791)

In suits at common law, where the value in the controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

Article III and the Sixth Amendment guarantee jury trials for persons accused of crimes. This amendment extends this right to either party in a civil suit involving more than twenty dollars. A civil suit, or case, involves a dispute about individual rights and legal obligations. A dispute about a contract, for example, would be settled by a civil suit.



AMENDMENT 8



Bail and Punishment (1791)

In some cases, the court will decide that an accused person who is awaiting trial can be released from jail if he or she pays bail. **Bail** is a sum of money or property the accused person agrees to give up if he or she fails to return for trial.

Both bail and fines used as punishment must fit the crime. Punishments themselves cannot be cruel or unusual. A shoplifter, for example, cannot be hanged. This amendment has been used to challenge the constitutionality of the death penalty. Beginning in 1972, a series of Supreme Court rulings agreed that the death penalty was "cruel and unusual punishment." Thus, all laws that dealt with the death penalty were void. Then in 1976, a ruling again allowed the death penalty for certain "extreme" crimes, as long as the guidelines for its use were clear. Today, the debate over the death penalty continues.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.



AMENDMENT 9



Powers Reserved to the People (1791)

The framers realized they could not list all the rights of citizens. This amendment was included to make it clear that the "listed" rights were *not* the people's only rights. It satisfied those who worried a bill of rights could be used to limit liberty, not protect it.

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



AMENDMENT 10



Powers Reserved to the States (1791)

This amendment aims to make the state's relationship to the federal system clear. All powers that are not specifically given to the federal government or specifically forbidden to the states, are guaranteed to the states or the people.

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.