

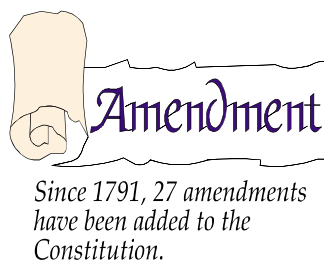
## Civil Rights

One of the biggest problems that the United States has had under the Constitution (see Appendix A) is trying to protect the rights of the individual, called **civil rights**, while maintaining the practice of **majority rule**.

The United States Constitution sets up a government that is based on the idea that the **majority** of the people should decide how things are done. This is democracy in action. The side with the majority (more than half) of the votes wins elections and makes decisions. At the same time, the writers of the Constitution worked hard to protect the rights of the **minority**. This means that individual rights given to citizens cannot be taken away—even if they apply to less than half of the people.

## Constitutional Amendments

The writers of the Constitution also made provisions for the growth of the government. In Article V of the Constitution, the writers outlined the method for the citizens to change their government. While citizens cannot change what is already written in the Constitution, they can make changes by writing amendments to the Constitution. Article V describes two ways to propose and two ways to ratify (or pass) amendments. (See Unit 3.) Because all amendments require the approval of the majority of the people (at least three-fourths of the states), passing an amendment may take a very long time.



Since 1791, 27 amendments have been added to the Constitution. (See Appendix A.) Americans were not happy with the original Constitution and demanded that their rights as citizens or their individual rights be listed. The first 10 amendments were added soon after the original Constitution was approved in 1787. Those 10 amendments came to be called the Bill of

Rights. (See Appendix D.)

The Bill of Rights lists many rights guaranteed to the individual. Most of the 27 amendments refer to the rights of the people. (A listing of the 27 amendments appears on the following page.)

# The Constitutional Amendments

Number	Amendment
1 .....	<b>Freedom</b> of religion, speech, press, assembly, and petition *
2 .....	<b>Right</b> to bear arms *
3 .....	<b>Freedom</b> from housing of troops in private homes *
4 .....	<b>Right</b> to fair searches and seizures *
5 .....	<b>Right</b> of persons accused of a crime *
6 .....	<b>Right</b> to a fair and speedy trial *
7 .....	<b>Right</b> to sue *
8 .....	<b>Right</b> to fair bail, fines, and punishments *
9 .....	<b>Freedom</b> to obtain other additional rights *
10 .....	<b>Powers</b> reserved to the states
11 .....	<b>Right</b> to sue a state*
12 .....	<b>Election</b> procedure for the President and Vice President
13 .....	<b>Freedom</b> from slavery *
14 .....	<b>Right</b> to citizenship; representation in Congress; punishment for rebellion; and equal protection under the law *
15 .....	<b>Right</b> to vote of citizens *
16 .....	<b>Income tax</b>
17 .....	<b>Right</b> to elect Senators *
18 .....	<b>Prohibits</b> (outlaws) alcoholic beverages
19 .....	Women's <b>right</b> to vote *
20 .....	Presidential <b>Inauguration</b>
21 .....	<b>Legalizes</b> alcoholic beverages *
22 .....	<b>Limits</b> President's term
23 .....	<b>Electoral votes</b> for Washington, D.C.*
24 .....	<b>Protection</b> from poll taxes (taxes on voting) *
25 .....	<b>Presidential disability</b>
26 .....	<b>Right</b> to vote of 18 year olds *
27 .....	Congressional <b>compensation</b> changes

\* individual rights guaranteed to citizens of the United States

## The First Amendment

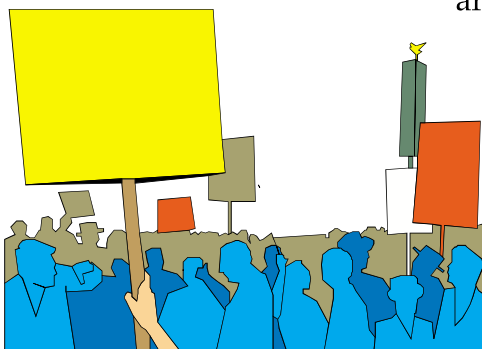
One of the most important amendments is the First Amendment, which states that all citizens must be given freedom of religion, speech, press, assembly, and **petition**. Let's take a brief look at each one of these guaranteed freedoms.

**Freedom of Religion.** This portion of the First Amendment states that citizens must be free to follow the religion of their choice. It also means that citizens cannot be forced to practice any religion if they do not wish to do so. The idea of freedom of religion also established the concept of **separation of church and state**. If religious involvement is truly to be an individual freedom, the government must not promote any one religion or group of religions.

The concept of freedom of religion (and separation of church and state) has resulted in a number of court cases. In *Engel v. Vitale* (1962), the Supreme Court ruled that public school students could not be required to start each day with a prayer. In an earlier case, *West Virginia Board of Education v. Barnette* (1943), the Supreme Court granted children belonging to the Jehovah's Witness religion the right to refuse to salute the flag because it went against their religious beliefs.

**Freedom of Speech and the Press.** The First Amendment also guarantees all citizens the right to express their opinions. Free speech may not, however, be used in ways which will harm others. Freedom of speech and freedom of the press may be withdrawn in matters of national security and with regard to obscene material. In addition, there are laws protecting citizens against **libel** and **slander**. Libel refers to printing untrue statements about an individual; slander refers to making oral statements which are false.

**Freedom of Assembly and Petition.** All people are given the right to assemble peacefully to express their opinions. This may include pickets, rallies, or other demonstrations. Some limits, such as requiring permits for marches, may be invoked. The right to assemble is one way we have of making our feelings known to the government. A petition, or written request submitted to government officials, is another way.



## Rights of the Accused

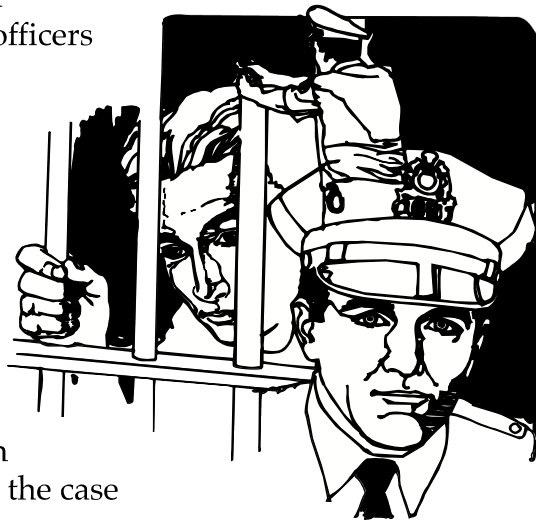
A number of amendments to the Constitution protect individuals accused of crimes. These include the Fourth, Fifth, Sixth, and Eighth Amendments.

**The Fourth Amendment.** The Fourth Amendment limits the government's right to search. Police or other officials may not search a person's home or take any of his or her property without the written consent of a judge. This written consent is called a **search warrant**.

**The Fifth Amendment.** The Fifth Amendment encompasses a number of the rights of accused persons. A person cannot be charged with a crime unless a grand jury decides there is enough evidence against that person. A person cannot be forced to give evidence against himself or herself. A person must be given **due process of law** (fair and equal treatment by the court system). In addition, a person cannot be tried for the same crime twice—even if new evidence might prove that person's guilt. This is known as **double jeopardy**.

From watching television, you may be familiar with the Miranda statement used by police. It begins, "You have the right to remain silent. Anything you say can and will be used against you in a court of law...." This warning is a result of the Supreme Court case *Miranda v. Arizona* (1966), which was a test of our Fifth Amendment rights. In this case, the Supreme Court Justices held that persons accused of crimes must be informed of their rights so that they are aware that they do not have to give evidence against themselves. The **Miranda warning** is now a standard procedure among law enforcement officers all around the country.

**The Sixth Amendment.** The Sixth Amendment lists further rights of the accused. These include the right to a speedy trial, the right to trial by jury, and the right to be represented by a lawyer. Citizens have not always been given the right to be represented by a lawyer, however. In 1963, the Supreme Court considered the case



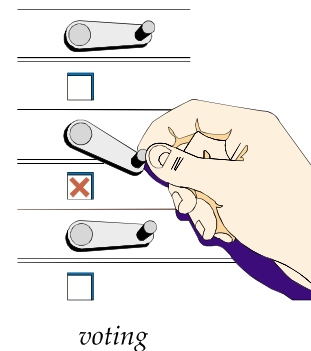


of *Gideon v. Wainright*. Clarence Earl Gideon, convicted of theft, claimed that because he had been too poor to hire a lawyer, his rights had been denied. The Supreme Court agreed and today, those who cannot afford lawyers are provided one by the court.

**The Eighth Amendment.** The Eighth Amendment offers additional protection for the accused. This amendment states that **bail** (money paid for release of an accused person from custody and held by the court until the accused returns to trial) must be fair. This amendment provides that no “cruel and unusual” punishments may be used.

### Voting Rights

Four of the amendments to the Constitution are concerned with voting rights of all citizens. Amendment 15 states that no citizen shall be denied the right to vote because of race or color. Amendment 19 gave women the right to vote. Amendment 24 prohibited charging a poll tax (voting tax). Amendment 26 lowered the voting age to 18. Before Amendment 26 in 1971, 18-year-olds could be drafted but could not vote.



### Other Supreme Court Cases Affecting Civil Rights

A number of other landmark Supreme Court cases have had an effect on the individual rights of Americans. Here we will consider three of them.

***Plessy v. Ferguson (1896)*.** In this case, Homer Plessy, an African-American man, refused to move from an area on a train reserved for whites. He said that this policy violated his Fourteenth Amendment right to equal protection under the law. The Supreme Court disagreed, saying that as long as the two areas were “equal,” separation was acceptable. This became known as the **separate but equal doctrine**.

***Brown v. Topeka Board of Education (1954)*.** In a test of the separate but equal doctrine, the parents of Linda Brown sought to enroll their daughter in a school for white children which was closer to their home than the nearest school for African-American children. The Supreme Court in this ruling decided that schools could *not* be both separate and equal and ordered desegregation in the schools.

*Bakke v. Regents of the University of California (1978)*. In order to reduce discrimination, the United States government adopted a policy of encouraging acceptance of minorities in schools and workplaces. This policy was known as **affirmative action**. One result of this policy was the court case concerning Allen Bakke, a white male, who had failed to get admitted into a California medical school. Bakke claimed that this was due to **reverse discrimination**—the acceptance of minorities over whites whose qualifications were equal or better.

According to Bakke, this was a violation of his 14th Amendment right to equal protection under the law. The Supreme Court handed down a two-part decision. First, it said that the use of **quotas** (holding a specific number of slots for minorities) was unconstitutional. In the second part, however, the court gave its support to the concept of affirmative action.

## Legislative Acts

Not all the decisions regarding civil rights are made in the courts. Some changes have occurred as the result of laws which extend or further guarantee our individual rights. These include the following:

- **Civil Rights Act of 1964.** This law prohibits discrimination on the basis of race, religion, or national origin in all public places such as hotels, restaurants, and theaters.
- **Civil Rights Act of 1968.** This law forbids discrimination in housing on the basis of race, religion, or national origin.
- **Voting Rights Act of 1965.** This law stopped the practice of requiring written tests in order to be allowed to register to vote. This law increased voting rights for minorities and others who spoke little or no English.
- **Gun Control Act of 1968.** This law requires the licensing of certain guns and forbids the sale of handguns to persons under 21 and rifles to those younger than 18. This is an example of a law that limits individual rights in order to protect the majority.

## Taking a Stand

Many of the amendments to the Constitution are controversial. This means many people disagree with and argue about the way the amendments should be interpreted. Read about the following controversial issues and decide if you agree with them or not.

### Searches and Seizures

The Fourth Amendment deals with citizen's right to fair searches and seizures. This means a police officer must have a search warrant to search a private home. However, armed with evidence that someone in the home committed a crime, the police officer may conduct a search without a search warrant. This is known as *probable cause*.



The Fourth Amendment may not apply in your school. In the case of *New Jersey v. T.L.O. (1985)*, the Supreme Court ruled the school officials do not need valid warrants or probable cause to search students or their property. All that is needed is the belief the search will disclose that the student has broken school rules.

### The Death Penalty

The Eighth Amendment protects prisoners against cruel and unusual punishment. However, many people disagree about the meaning of cruel and unusual punishment.

### Freedom of Speech

The First Amendment protects the right to march, demonstrate, and form picket lines. However, demonstrators are not allowed to endanger public safety, stop traffic, illegally trespass, or block the sidewalks. Groups like the Ku Klux Klan are allowed to make public speeches or march in parades.

In *Hazelwood School District v. Kuhlmeier (1988)*, the Court stated that school officials have the authority to limit freedom of speech. For example, they are allowed to regulate school newspapers, plays, and pep rallies. They can also suspend students from school for lewd and indecent speech at school events.