

Understanding the Bill of Rights: Amendments 2-10

Assignment: Read the following explanation for amendments 2-10. Divide a page in your notebook into six squares. In each box, you will write the number of the amendment, its brief explanation and a small visual. This is due at the beginning of class tomorrow.

The Second Amendment: The Right to Bear Arms

The Second Amendment guarantees individual states the right to maintain "a well regulated militia," and citizens the right to "keep and bear arms." Because criminals often used unlicensed weapons to hurt others, some people have urged the national government to control the sale of guns. Other people have argued that gun control is a violation of the Second Amendment.

The Third Amendment: Housing Troops

The Third Amendment pledges that in peacetime, citizens will never have to keep soldiers in their homes without consenting. Before the Revolution, the British forced Americans to provide lodging and food for their troops. The colonists bitterly resented this intrusion on their privacy as well as the cost of feeding hungry soldiers.

The Fourth Amendment: Search and Seizure

The Fourth through Eighth Amendments concern the rights of people suspected of crime. The Fourth Amendment protects citizens from improper searches of their bodies, possessions, or homes. It requires that a detailed warrant be issued by a judge listing what can be searched. There has to be a good reason for the search. For example, suppose the police knew that someone in your school was selling drugs. The Constitution does not let them search the home of every student. In fact, they could not search the homes of even one or two without a court order.

The Fifth Amendment: Rights of the Accused, Due Process of the Law, and Eminent Domain

Rights of the Accused. The Fifth Amendment protects the rights of anyone accused of a crime. It assumes that everyone is innocent until proven guilty. In some countries, exactly the opposite is true. Suspects must prove that they are innocent. When a person is accused of a crime for which the punishment could be death, the Fifth Amendment requires that a "grand jury" look at the charges before that person can be brought trial. A grand jury is a group of citizens who decide if there is enough evidence to try a person. It is intended to prevent people from being falsely accused of a serious crime. Today, grand juries consider most serious criminal charges. The Fifth Amendment also states that the person cannot be tried twice for the same crime.

The section of the Fifth Amendment that has received the most publicity is the guarantee against "self-incrimination." This means people cannot be forced to testify against themselves. Under the Fifth Amendment, law enforcement officials must produce the evidence necessary to convict a person of a crime. The accused person cannot be made to provide it. In earlier times, people were tortured until they confessed to crimes they may not even have committed. The guarantee against self-incrimination makes sure that unfair pressure cannot be used to make a person confess.

In the 1950's, this section of the Fifth Amendment sparked a public uproar. Notorious criminals accused of having ties with the underworld claimed the Fifth Amendment protected them from having to testify. If they had denied those accusations, they probably would have been found guilty of "perjury," or lying under oath. Perjury is punishable by law. If they had told the truth, they would have risked punishment. Instead, they

refused to testify on the grounds that they might incriminate themselves. Law enforcement officials had to come up with evidence against them or free them.

The right to remain silent also protects innocent people. During the 1950's, the government became concerned about Communists. Politicians held hearings in which people were asked which organizations they had joined and who their friends were. If they answered that they had been involved in certain groups or friendships, they were accused of being Communists. At times, the accusations became wild and unfounded. Many people took refuge in the Fifth Amendment protection against self-incrimination. Some, perhaps, were Communists who might have wished to see the government overthrown. Others, however, were innocent citizens who had been caught up in a hysterical movement. The Constitution protected them against ruthless accusations.

Due Process of the Law. Another section of the Fifth Amendment holds that "no one can be deprived of life, liberty, or property without due process of law." In other words, the government must follow certain legal procedures before deciding on a penalty. It can't jail a person because it suspects that the person committed a crime. It must prove the accusation by following certain rules and methods. However, "due process of law" is a rather vague and general term. As times have changed, so has its meaning.

In the 1930's, photographers and newsreel cameramen were allowed to record trials. (There was no television news.) The trial of a man accused of kidnapping the aviator Charles Lindbergh's child took on the atmosphere of a circus. Lawyers and witnesses became more interested in creating publicity than in determining justice. They began to make exaggerated claims.

In later years, to discourage publicity stunts and other distractions, only artists and reporters were allowed to be present in court. Now some judges permit television cameras to record trials. How might the presence or absence of cameras affect a defendant's right to due process?

Eminent Domain. Finally, the Fifth Amendment requires the government to pay citizens when it takes over their property for a public use. The government's right to take this property is called "eminent domain." Suppose the state wanted to build a highway which would run right through your residence. It would have to pay the owners a reasonable price for the property. The government could force you to move, but at least it would have to provide you with the money to relocate.

The Sixth Amendment: Fair and Speedy Trials

The Sixth Amendment provides more requirements for a fair trial in criminal cases. It guarantees a speedy, public trial by an impartial jury in the area where the crime was committed. The defendant must be able to question the accusers and to force favorable witnesses to testify. The accused has a right to a lawyer.

How would you feel if you were falsely accused of cheating on a test? Suppose you had no idea who was accusing you. How could you question your accuser? How could you defend yourself? Your reputation could be hurt if you had to wait a long time before the matter was cleared up. Wouldn't you want a chance to prove your innocence? This is why the Sixth Amendment is so important.

The Seventh Amendment: Jury Trials

The Seventh Amendment guarantees that Americans will receive a jury trial in civil (as opposed to criminal) cases involving property worth more than \$20. Today, however, people do not bring such cases to federal courts unless a much larger sum of money is involved.

The Eighth Amendment: Bails, Fines, and Punishments

The Eighth Amendment protects people from having to pay unreasonably high "bail" in order to be released from prison before they go to trial. Bail is money given to pledge that a person accused of a crime will appear for trial. The Eighth Amendment also protects people from unreasonably high fines. Finally, it outlaws cruel and unusual punishment. This requirement, as well as the Fifth Amendment's guarantee against self-incrimination, protects citizens from the use of torture. Some people have argued that the death penalty is a form of cruel and unusual punishment.

The Ninth and Tenth Amendments: Reserved Powers

The last two amendments address the liberties of citizens and the rights of states. The Ninth Amendment states that the Constitution and the Bill of Rights do not define all of the fundamental rights people have. Such rights exist whether or not they are defined. The Tenth Amendment makes a similar claim concerning the rights of the states. It holds that the states and the people have powers that are set aside and not listed item by item. These powers are called "reserved powers." They can be contrasted with "express powers," which are specifically defined in the Constitution.