

CHAPTER 6

The Bill of Rights

Citizenship and You

“What is so great about being an American citizen?” Mr. Walker’s question surprised his students. For a moment the room was silent.

Finally Sharon raised her hand. “Well, we have rights,” she said. “For one thing, we have freedom of speech.”

Juan raised his hand and said, “People have a right to a trial, with lawyers, a judge, and a jury.”

“And we have freedom of religion,” Jessica added.

Mr. Walker nodded. “Those are all important rights,” he said. He leaned against the desk and addressed the whole class. “As American citizens we have many rights—probably more than most of us can name. These rights are listed in a part of the Constitution called the Bill of Rights.”

What’s Ahead in Chapter 6

Why is the Bill of Rights so important and how did it become part of the Constitution? This chapter will answer these questions and help you understand the value of your rights as an American citizen. You will also see that the story of the Bill of Rights is not just about history—it is an ongoing story in which you play a vital role.

Section 1 Adding the Bill of Rights

Section 2 Protections in the Bill of Rights

Section 3 Interpreting the Bill of Rights

Citizen’s Journal

How would you have answered Mr. Walker’s question to his class? Write a paragraph describing what you think are your most important rights as an American citizen.

SECTION 1

Adding the Bill of Rights

SECTION PREVIEW

Objectives

- Describe the two methods that may be used to propose and to ratify an amendment.
- Summarize the debate in Congress over the Bill of Rights.
- Describe how the Bill of Rights became part of the Constitution.



Focus

To understand how the Bill of Rights became part of the Constitution, you need to recall why a list of citizens' rights was left out of the original document. Quite simply, the framers thought that it was unnecessary. They believed that the Constitution already guarded against tyranny by limiting the government's power.

The Anti-Federalists disagreed and put up a stiff fight against ratification. If James Madison and other Federalists had not promised that a bill of rights could be added later, in the form of amendments, the Constitution might not have been ratified.

After the ratification, Madison was determined to fulfill his promise to the Anti-Federalists. Adding a bill of rights would be an important step toward gaining their support for the new government. The stage was set for the first changes in the Constitution and therefore the first test of the amendment process.

The Amendment Process

The Constitution requires that any amendment must be approved at both the national

and state levels. First an amendment is approved at the national level—usually by Congress—and proposed to the states. Then the states either ratify it or reject it.

There are two ways to propose an amendment to the states. Congress may propose an amendment if it has been approved by a two-thirds vote in both the Senate and the House of Representatives. The 27 amendments that are part of our Constitution today were all proposed this way.

An amendment may also be proposed by a national convention called for by two thirds of the state legislatures. This method, however, has not yet been used.

Once an amendment is proposed, there are two ways for the states to ratify it. The usual route is approval by the legislatures of three fourths of the states. The other method is approval by special conventions in three fourths of the states. Congress chooses which method will be used. The amendment process can take months or even years to complete because any proposed change in the Constitution must gain such widespread support.

The Debate in Congress

In the case of the Bill of Rights, the amendment process began in Congress. Speaking to fellow members of the House in June 1789, Madison declared that many Americans believed that the articles of the Constitution did not adequately protect their rights. By proposing a bill of rights, he argued, Congress would be responding to the people's will and earning their trust, thereby laying a solid foundation for the new republic.

The newly-elected Congress, however, was impatient to begin passing laws that would set the young government firmly on its feet. Therefore, Madison agreed that a bill of rights could wait. He urged Congress, though, to prepare a bill of rights



George Mason wrote Virginia's Declaration of Rights, which became a model for the Bill of Rights added to the Constitution in 1791.

as soon as possible. By doing so, he declared, Congress would "make the Constitution better in the opinion of those who are opposed to it without weakening its frame... in the judgment of those who are attached to it."

Two months later, in August, members of Congress began preparing the amendments that they hoped would become the bill of rights. After some debate, they produced a list that drew on many earlier statements of individual rights, such as the Magna Carta, the English Bill of Rights, colonial charters, and state constitutions.

The next issue was where in the Constitution to place the bill of rights. Madison wanted to place the rights within the articles of the Constitution to show their relationship to limits already placed on the government.

As it turned out, a majority of members of Congress voted to attach the list of rights to the end of the document. Some Congress members wanted the Bill of Rights at the end because they did not want to give them the same importance as the original Constitution.

The Proposal and the Ratification

Following the debates, a committee of Congressmen wrote final versions of twelve amendments, including ten that protected citizens' rights. Congress approved the amendments and proposed them to the states in September of 1789.

The amendments were welcomed by people who had not trusted the new government. Only two failed to gain enough support: proposals to enlarge the size of the House and to limit when Congress might raise its salaries. By December 15, 1791, the states had ratified ten amendments protecting citizens' rights. The Bill of Rights had become part of the Constitution.

Section 1 Assessment

1. Describe the method by which all 27 amendments have been proposed.
2. What is one method of ratifying an amendment?
3. What was the main argument in favor of a bill of rights? What was the main argument against a bill of rights?
4. **Evaluate** If you had been a member of Congress in 1789, which would you have considered more important: getting the new government organized or proposing a bill of rights? Explain.

SECTION 2

Protections in the Bill of Rights

SECTION PREVIEW

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.

Building Civics Vocabulary

- **Separation of church and state** means that governments may not favor any religion or establish an official religion.
- The government has the power of **eminent domain**, or the power to take private property for payment for public use.
- The right to **due process of law** entitles accused citizens the right to be treated fairly according to rules established by law.
- Citizens are protected from **double jeopardy**, or being placed on trial twice for the same crime.



Focus

When the first ten amendments were added to the Constitution, they were intended to protect citizens' rights against actions by the national government. The Bill of Rights did not change any basic principles in the Constitution. Instead, these ten amendments spell out basic rights that are protected under our form of government. These rights fall into three main categories: (1) individual freedoms, (2) protections against government abuse of power, and (3) rights of citizens accused of crimes.

Protections of Individual Freedoms

Picture what your life might be like if the following were true: 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.

Perhaps you are asking yourself, "What is the point of supposing things that could never happen?" The answer is that they do happen. Millions of people in the world today are denied the rights that we Americans often take for granted. These rights include a number of freedoms protected by the First Amendment.

Freedom of Religion The First Amendment provides for freedom of religion. Every American is free to follow the religion of his or her choice, or not to practice any religion at all. Also, the First Amendment establishes **separation of church and state**, the situation in which the government may not favor any religion or establish an official religion. This was the first time in history that a government had taken such a step. With separation of church and state, religion may never be used as a test for deciding who may hold office or who may vote.

Freedom of Speech When people say, "This is a free country, so I can say what I want," they are referring to freedom of speech, another right protected by the First Amendment. As an American you have the right to speak and write freely, to say what you believe.

Does freedom of speech mean that you may say anything, whenever and wherever



THE BILL OF RIGHTS The first ten amendments to the Constitution are known as the Bill of Rights. **Government** In your own words, summarize the overall goal of the Bill of Rights.

Amendment	Subject
1st	Guarantees freedom of religion, of speech, and of the press; the right to assemble peacefully; and the right to petition the government.
2nd	Protects the right to possess firearms.
3rd	Declares that the government may not require people to house soldiers during peacetime.
4th	Protects people from unreasonable searches and seizures.
5th	Guarantees that no one may be deprived of life, liberty, or property without due process of law.
6th	Guarantees the right to a trial by jury in criminal cases.
7th	Guarantees the right to a trial by jury in most civil cases.
8th	Prohibits excessive bail, fines, and punishments.
9th	Declares that rights not mentioned in the Constitution belong to the people.
10th	Declares that powers not given to the national government belong to the states or to the people.

The full text and explanation of the Constitution can be found on pages 108–129.

you please? No. You are not free to slander another person, telling lies that damage his or her reputation. However, you are free to express opinions, no matter how unpopular, and to write articles, stories, and poems, no matter how much other people may dislike them or disagree with them.

Freedom of the Press As you read in Chapter 4, the belief in freedom of the press took root during the colonial period, especially through the Zenger case. That belief became a reality with the First Amendment, which prevents the government from deciding what may be printed.

Together with freedom of speech, freedom of the press guarantees that people may criticize the government without fearing arrest. In many countries today, the government controls newspapers and radio or tele-

vision stations. In the United States, the First Amendment helps guarantee that citizens can get information and hear different opinions.

Like freedom of speech, freedom of the press has its limits. For instance, a newspaper is not free to libel, or print lies about, a person because this would unfairly damage his or her reputation. Also, both freedom of speech and freedom of the press may be limited when what is said or written endangers the lives of citizens, as when a person falsely shouts “Fire” in a theater and causes a panic.

Freedom of Assembly Under the First Amendment, citizens also have the right to assemble, or meet together. For instance, a group may hold a demonstration to protest a new law as long as their demonstration is peaceful and does not violate the rights of other citizens.

"They can't say I'm not doing anything"



Freedom of the press applies not only to writings but also to political cartoons. This 1975 cartoon poked fun at President Gerald Ford.

Freedom of Petition Perhaps you have heard people make statements such as, "I don't like that law, but there is nothing I can do about it." According to the First Amendment, there *is* something they can do about it. Any citizen or group of citizens has the right to ask a government representative to change a law, to make a new law, or in other ways to solve problems that arise. A citizen may make such a request by writing a letter, by telephoning, or by sending a petition—a request signed by many citizens—to a representative in Congress.

Protections Against Abuse of Power

The Second, Third, Fourth, and Fifth amendments all help protect citizens from

abuse of power by police and judges, or by any other government officials. These amendments stem from the colonists' experience under the rule of England.

Gun Ownership The Second Amendment deals with the rights of citizens to own guns. The Amendment states:

“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.”

When this amendment was written, the American Revolution was fresh in the minds of citizens. Americans remembered that militias, or groups of citizens armed to defend themselves, had played an important role in achieving victory over the powerful British. Now that the United States was forming a strong government of its own, many people felt this amendment provided a vital protection against abuses of government power.

Throughout our nation's history, citizens have debated the exact meaning of the Second Amendment. Do Americans have a constitutional right to own guns for personal use? Should the government have the right to restrict the sale and use of guns? These questions are still being debated today.

The Housing of Soldiers During the colonial period, England had allowed English soldiers to use colonists' homes as living quarters. The Third Amendment states that the government must obtain the owner's consent first. During wartime a citizen may have to provide soldiers with lodging, but only if Congress passes laws requiring it.

Unreasonable Searches and Seizures

"Open up! This is the police. We have a warrant to search your house!" You have probably seen movies in which police officers say this when entering the home of a suspect. Under the Fourth Amendment,

officers cannot search a citizen or a citizen's home without a valid reason. Usually they must obtain a **search warrant**—written permission from a judge—to search citizens, their homes, or their belongings. To obtain a warrant, the police must convince a judge that they are likely to find evidence of a crime.

During the years leading to the American Revolution, as tensions between England and the colonies increased, Parliament allowed officers to make unlimited searches and seizures. Through the Fourth Amendment, Americans were guarding against any such abuse of power by the new government.

Protecting Property Rights May the government take away your property to build a freeway, subway, or other public project? Yes, it may. The government has the power of **eminent domain** (EM eh nehnt do MAYN), the power to take private property for public use. However, the Fifth Amendment protects citizens from an abuse of this power by requiring the government to pay owners a fair price for their property.

Protections of the Accused

When arresting a person suspected of a crime, a police officer makes a statement like the following.

“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 provided for you at public expense.”

This statement is part of the Miranda warning, which is named after a man who was arrested without being informed of his rights. As a result of a Supreme Court decision in 1966, police officers must state the Miranda warning to anyone they arrest.

Facts & Quotes

Washington on Citizenship

George Washington spoke of the future of a government that protects the rights of its citizens:

“If we have wisdom to make the best use of the advantages with which we are now favored, we cannot fail, under the just administration of a good government, to become a great and happy people. The citizens of the United States of America have a right to applaud themselves for having given to mankind examples of a policy worthy of imitation. All possess alike liberty of conscience and immunities [protections] of citizenship.”

The rights of the accused are spelled out in the Fifth, Sixth, Seventh, and Eighth amendments. These amendments reflect English legal tradition dating back to the Magna Carta, which stated that no person could be deprived of life, liberty, or property except by “the law of the land.” The Constitution continues English tradition by stating that citizens are entitled to **due process of law**, a process by which the government must treat accused persons fairly according to rules established by law. People accused of crimes have rights under the Constitution.

The Fifth Amendment The Miranda warning mentions the right to remain silent because the Fifth Amendment says that nobody may be forced to “be a witness against himself.” This is why accused persons sometimes say, “I take the Fifth” or “I refuse to answer on the grounds that it

PEOPLE MAKE A DIFFERENCE

Accused Citizen Fights for Rights

In 1961 Clarence Gideon was charged with breaking and entering a Florida pool hall. When brought to trial in a Florida court, he pleaded innocent. However, he could not afford a lawyer, and the court refused to provide him with one. He was found guilty and sentenced to five years in prison.

Clarence Gideon was determined to prove that his rights had been violated. As he later wrote, "I always believed that the [main] reason of trial...was to reach the truth. My trial was far from the truth."

Gideon spent hours in the prison library studying law books. He read that the right to have a lawyer is stated in the Sixth Amendment. However, books about previous cases revealed disagreement over whether the right applied in state courts. Believing that it should apply in *any*

court, Gideon wrote a letter asking the Supreme Court to hear his case.

The issue of whether state courts should provide lawyers to represent the poor had already come before the Court several times. The Court had ruled that this right to a lawyer applies only to special circumstances. Gideon's situation did not seem special, but the Supreme Court agreed to re-examine the issue.



When the case came before the Court on January 14, 1963, all of the justices concluded that no court should deny a citizen the right to have a lawyer because he or she is too poor to afford one. It was a victory not only for Gideon but also for thousands of other Americans, who would now be guaranteed the right to have a lawyer if they were ever accused of a crime.

In winning his case before the Court, Gideon also won the right to a new trial in Florida. This time the court paid for a lawyer to represent him, and he was found not guilty. In learning about his rights and taking action to defend them, Gideon stands as an example that every citizen's voice can be heard.

Active Citizenship

How did Gideon's actions affect the rights of accused citizens throughout the nation?

may incriminate me [make me appear guilty]." In some countries, police use torture or other methods to pressure citizens into confessing to crimes. Under the Fifth Amendment, any confessions must be freely given, not forced.

The Fifth Amendment also states that persons suspected of committing serious crimes such as murder must be indicted (in DYE ted), or accused, by a grand jury. A grand jury determines whether there is enough evidence to put the person on trial.

Citizens are also protected from **double jeopardy** (JEP ur dee), being placed on trial twice for the same crime. Thus, a person who has been found “not guilty” of a crime in a federal court cannot be put on trial again for the same offense.

Right to Trial by Jury A key element of due process of law is trial by jury. The Sixth Amendment guarantees a citizen’s right to a speedy, public, and fair trial in any case involving a crime. A person may not be tried in secret or kept in jail for a long time awaiting trial. An accused person has the right to the advice of a lawyer. An accused person also has the right to know what the accusations are and the right to ask questions of any witnesses during the trial.

The Seventh Amendment permits jury trials in cases where there are conflicts over property or money—as long as the value in dispute is over twenty dollars. The Sixth and Seventh amendments reflect the belief that trial by jury is important if people are to have trust and confidence in the law. The work of the courts is open to public view and public participation. When people serve as jurors, they help to make sure that their fellow citizens are treated fairly.

Bail, Fines, and Punishments The Eighth Amendment protects accused persons from unfair treatment both before and after a trial. Instead of having to stay in jail until the trial, an accused person may be allowed to deposit with the court a certain amount of money—called bail. This money is a pledge that the person will appear at the trial.

The Eighth Amendment forbids the amount of bail from being unfairly high. When the person appears at the trial, the bail is returned. This system protects the accused person from long-term imprisonment before being convicted of a crime. The Eighth Amendment also protects people from “cruel and unusual punishments.” Whipping,

branding, and other physical punishments were common in England and America during the 1700s. The debate continues today over whether the death penalty should be considered “cruel and unusual punishment.”

Protections of Other Rights

One of the objections to adding a bill of rights had been that all rights could not possibly be included. James Madison, however, had provided a solution to this problem. Madison had suggested an amendment stating that citizens’ rights are not limited to the ones listed in the Constitution. This proposal became the Ninth Amendment.

The Tenth Amendment settles a question arising from Article 1 of the Constitution. Article 1 describes which powers Congress has and does not have, and which powers are denied to the states. But who has the powers that the Constitution does *not* mention? The Tenth Amendment declares that those powers belong to the state governments or to the people.

Section 2 Assessment

1. Define **separation of church and state**, **eminent domain**, **due process of law**, **double jeopardy**
2. List the freedoms protected under the First Amendment.
3. Explain how the Third, Fourth, and Fifth amendments protect citizens from government abuse of power.
4. Explain how the Bill of Rights guarantees that the government cannot suddenly arrest a person and put him or her in prison without a reason.
5. According to the Tenth Amendment, who has the powers not mentioned in the Constitution?
6. **Synthesize** In what ways does the Bill of Rights reflect our American belief in freedom, justice, and equality?

SECTION 3

Interpreting the Bill of Rights

SECTION PREVIEW

Objectives

- Describe the role of the courts in settling disputes over citizens' rights.
- Summarize the Supreme Court's decision in the Tinker case.
- Review both sides of the Skokie case, and describe the Court's decision.
- Describe the continuing challenge of citizens in protecting our own rights.



Focus

What happens when people disagree about the meaning of our rights under the Constitution? Consider freedom of the press and freedom of speech as examples. Is a school principal violating students' rights when he or she censors an article that was written for the school newspaper? Does a person have the right to make a speech that causes listeners to riot, causing injury to others and damaging public and private property?

The rights of citizens are often difficult to interpret. One reason is that the first ten amendments to the Constitution are broad descriptions of rights. They were not intended to explain how those rights apply to every situation. Another reason is that sometimes certain rights have to be weighed against other rights. For example, suppose a person wants to make a speech that may cause a violent reaction. The right of that person's free speech must be weighed against the importance of providing for the safety of other citizens.

The Role of the Courts

The people who tackle the difficult job of interpreting the meaning of citizens' rights are the judges in our nation's courts. As legal experts, they decide whether people's rights are being violated by the actions of other citizens. They also decide whether rights have been violated by any laws.

Usually cases involving citizens' rights are first brought before local judges. If necessary, the decisions of these judges may be examined by higher courts, such as state courts. A few cases that start out in local courts eventually reach the United States Supreme Court. These cases often have far-reaching consequences for the nation.

The Value of Case Studies You will now be reading about two challenging cases that reached the Supreme Court. Both cases involve First Amendment rights. The decisions of the Court are presented as case studies, which are descriptions of situations or conflicts, the issues involved, and the decisions made.

Case studies can help you see principles of the Constitution being put into action. You can see how an ideal, such as freedom of speech, applies to a real situation. As you read each case study, picture yourself as one of the nine justices, or judges, of the Supreme Court. Think about how you would decide the case.

The Tinker Case: Students and Free Speech

On December 16, 1965, two students in Des Moines, Iowa—13-year-old Mary Beth Tinker and 16-year-old Christopher Eckhardt—came to school wearing black armbands. The next day John Tinker, Mary Beth's 15-year-old brother, also wore a black armband to school. The students were protesting American involvement in the Vietnam War. Their small protest would



Mary Beth and John Tinker display the black armbands that the Supreme Court ruled were a form of speech protected by the First Amendment.

eventually cause the Supreme Court to wrestle with two questions: What is meant by “speech” in freedom of speech, and what rights do students have under the Constitution?

The Case When Des Moines officials first learned of the students’ plan to protest, they announced that armbands would be forbidden. When the students wore armbands anyway, they were suspended. The Tinkers’ parents argued that the school board was denying the students’ right to freedom of speech. They declared that the students had not disrupted classes or interfered with other students’ rights. School officials defended the armband rule, stating that it preserved discipline. They argued that schools were not places for political demonstrations.

The Court’s Decision The case first came before a local court, which ruled that the armband rule was necessary to avoid disruption of classes. After a higher court also affirmed the school district’s decision, the students had one last hope: the Supreme Court.

The Supreme Court heard the case and ruled in favor of the students. It held that armbands were a form of “speech” because they were symbols representing ideas. The justices also said that the protest was protected by the First Amendment because it had not interfered with other students’ right to an education.

Most importantly, the Court emphasized that students *do* have a basic right to free speech. The Court declared:

“It can hardly be argued that students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate... Students in school as well as out of school are “persons” under our Constitution.”

Think about the Court’s ruling. Why is it important for students to have freedom of speech? How should that freedom be limited? What responsibilities go along with it?

The Skokie Case: Freedom for Nazis?

When may freedom of expression be limited? What other rights must be considered? What if a person or group expresses ideas that are very unpopular? All of these questions were involved in the Skokie case, one of the most controversial in our nation’s history.

The Case The year was 1938. Members of dictator Adolf Hitler’s Nazi party attacked the homes of Jews throughout Germany. Between 1938 and 1945, the Nazis forced millions of Jews and other people into camps to be starved, tortured, and killed.

The year was 1977. The place was Skokie, Illinois. The town’s residents included 40,000 Jews. Many of these people had survived the horror of Nazi camps, but many of their relatives had not. In May a small group of uniformed men applied for a permit to march through Skokie. Each man’s uniform displayed a large black swastika—the symbol of the Nazi party.

Shocked and enraged by the plans of these members of this Nazi group, Skokie officials wanted to prevent the march. They informed the Nazi group that it would have to obtain \$350,000 of insurance before a permit to march would be issued. Town officials hoped that the cost of this insurance

would dissuade the Nazis from wanting to march in Skokie.

When the Nazis planned a rally to protest the insurance requirement, the county court stated that the group could not hold a demonstration. The court forbade anyone to march in a Nazi uniform, display the swastika, or distribute material promoting hatred.

A long and painful court battle began. From the Illinois courts to the United States Supreme Court, judges faced a challenging question: does the First Amendment protect even Nazis and their message of hatred?

The case stirred nationwide interest. Many people argued that the First Amendment does not protect people who want to destroy freedom and spread violence. As one citizen stated, “Freedom of expression has no meaning when it defends those who would end this right for others.” Another said, “In Germany they also started with a bunch of crazies...Anybody who advocates killing should not be allowed to rally.”

Those who argued that Nazis do have a right to freedom of expression included members of the American Civil Liberties Union (ACLU), an organization devoted to defending citizens’ rights under the First Amendment. ACLU lawyers 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? A Jewish member of the ACLU summed up this argument by saying, “The First Amendment has to be for everyone—or it will be for no one.”

Clearly, the Skokie case presented a major challenge for the courts. There were powerful arguments and strong feelings on both sides.

The Court’s Decision Because they were unwilling to accept the county court order, the Nazis took their case to the Illinois Supreme Court. However, that court refused



When should freedom of speech be limited? Courts have faced this difficult question in cases involving the American Nazi party and other groups that promote hatred.

to overrule the county court order or to rule on the fairness of the Skokie laws. Therefore, the Nazis asked the United States Supreme Court to hear their case.

On June 14, 1977, the Supreme Court ordered Illinois to hold a hearing on their ruling against the Nazis. The Court did not discuss either the county court order or the Skokie laws, but its decision led the Illinois and U.S. District courts to examine those laws closely in light of the First Amendment.

For almost a year, the Illinois and U.S. District courts struggled with the issue of limits on the Nazis' right to freedom of expression. The courts finally decided that the Skokie law requiring insurance violated the First Amendment. The courts stated that the insurance was too costly for most groups and therefore limited free speech and assembly.

Also, the law had not been applied equally. The town officials required the Nazis to pay for insurance, but other groups were allowed to hold rallies without insurance.

The courts also concluded that the Nazis had a right to distribute material expressing hatred. The First Amendment protects the expression of all ideas—even beliefs that threaten the basic principles of our nation. As Justice Oliver Wendell Holmes said, over 50 years before the Skokie case, our Constitution protects “the principle of free thought—not free thought for those who agree with us but freedom for the thought that we hate.”

The courts discussed whether the Nazi uniform and swastika symbol were protected by the First Amendment. Earlier court decisions, particularly the Tinker case, had established that symbols were a

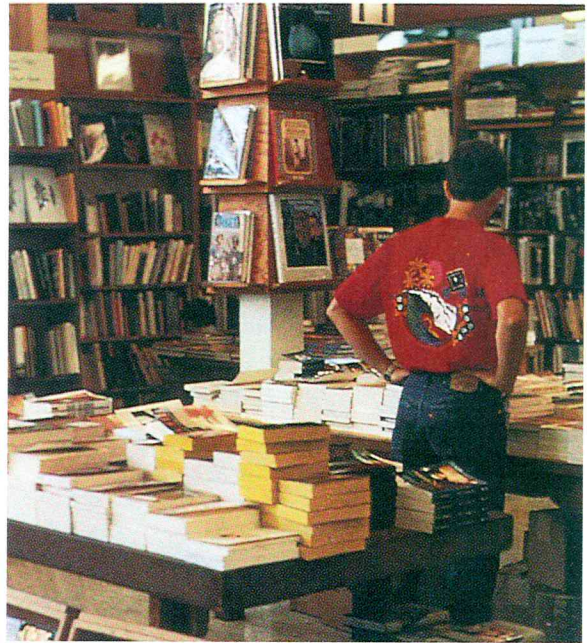
form of speech. The issue was whether the hated swastika symbol would cause a violent reaction, threatening public safety. By planning to wear their swastikas in Skokie, were the Nazis guilty of trying to start a fight?

The courts heard strong testimony from Jews in Skokie about the meaning of the swastika to them. One concentration camp survivor angrily declared, "I do not know if I could control myself if I saw the swastika in a parade." Skokie attorneys argued that for Jews, seeing the swastika was just like being physically attacked.

The Illinois Supreme Court deeply sympathized with the Skokie residents but decided that the swastika could not be banned. Otherwise, the mere possibility of violence could be used to keep anyone from exercising the right to freedom of expression. The court reluctantly concluded that the Nazis could wear their symbol, just as war protestors could wear black armbands. The United States Supreme Court let the Illinois court's decision stand, thereby removing the last roadblock to the Nazi rally.

In the summer of 1978 the Nazis finally held two rallies, but not in Skokie. Both rallies were in Chicago, and the Nazis faced thousands of people demonstrating against them. A heavy guard of Chicago police officers was assigned to prevent any violence.

A Marketplace of Ideas The Skokie case showed that the First Amendment protects not only views that most citizens support but also unpopular beliefs. The First Amendment makes possible what Justice Holmes called "a marketplace of ideas," in which all views may be expressed. Holmes believed that people should be allowed to hear many different ideas. Then they can accept, or "buy," the good ones and reject the bad. According to Justice Holmes, the test of a good idea is "the power of the thought to get itself accepted in the competition of the market."



In our marketplace of ideas, a bookstore like this one invites people to read the opinions of many different authors on a wide range of subjects.

What do you think? Should any person be allowed to state his or her beliefs, even when those beliefs are very unpopular or encourage hatred and prejudice?

The Continuing Challenge

Protecting the rights of citizens is not just the responsibility of judges and laws. It is a continuing challenge that we all share. Another famous American judge, Learned Hand, made this point in the following way:

“I often wonder whether we do not rest our hopes too much upon constitutions, upon laws, and upon courts. These are false hopes... Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can even do much to help it. While it lies there it needs no constitution, no law, no court to save it.”

As Judge Learned Hand emphasizes in his statement on the opposite page, the rights of American citizens are not protected just because they have been written down in our nation's Constitution. We as citizens of the United States—even while still students—play a key role in protecting our rights. By respecting each other's rights, we help guarantee that the Bill of Rights survives—not just as dry ink on faded parchment but as beliefs that we Americans live by.

Section 3 Assessment

1. Why is it often difficult to interpret the meaning of citizens' rights?
2. How do case studies help you understand the meaning of citizens' rights?
3. Describe the issues involved in the Tinker and Skokie cases, and explain how the cases were decided.
4. **Apply** You have looked at some of the issues judges have to deal with in cases involving freedom of expression. What issues would be involved when police arrest a murder suspect without obtaining permission to enter the suspect's home?

Extending the Chapter

Global Views

The Bill of Rights reflects our American belief that there are human rights no government should take away. In many countries today, governments ignore such basic rights as freedom of speech and trial by jury. People who criticize the government may be imprisoned without a trial. Many prisoners are tortured and killed.

Think about what it would be like to be imprisoned in your own home. It happened to Daw Aung San Suu Kyi, a leader of the movement to bring democracy and human rights to her native country of Myanmar. Suu Kyi was placed under house arrest by Myanmar's military government in 1989 and confined without a trial for six years. Even under these conditions she continued to work for change. For her courageous efforts, she was awarded the Nobel Peace Prize in 1991.

Daw Aung San Suu Kyi's story is just one example of the worldwide struggle to bring

basic human rights to citizens of every country. A number of human rights organizations, such as Amnesty International, help political prisoners by writing petitions to government officials, protesting against the use of torture, and sending medicine, food, and clothing to prisoners. These organizations promote worldwide observance of the United Nations Universal Declaration of Human Rights, an international agreement on human rights.

The United Nations declaration lists many of the rights found in our Bill of Rights, such as freedom of speech, freedom of religion, and freedom from unfair arrest or imprisonment. The treatment of prisoners in some countries, however, shows that their governments only claim to support human rights. After all, human rights cannot be preserved by documents alone. People must be willing to abide by those agreements, treating each other with respect as fellow human beings.

DECISION MAKING SKILLS

How to EVALUATE SOURCES

“John was right again! That movie I saw last night was super.” Many of the decisions you make, such as choosing what movie to see or selecting a summer job, are frequently based on information you get from other sources. Often, however, you do not have enough time to check the accuracy of every single piece of information. Therefore, you often base your decisions on information from sources you trust, such as a particular friend or a reference book.

Making good decisions involves knowing how to evaluate which sources of information are reliable, or trustworthy. A reliable source is one that you can depend on to provide accurate information. For instance, you think that John is a reliable source because his recommendations about movies have been good in the past.

Of course, information can come not only from what friends tell you but also from many other sources, such as books, magazines, newspapers, radio, television, and movies. Suppose that you have to form your own opinion about the Tinker case described on page 140. You want to get more information about the facts of the case and the legal issues before deciding. Suppose also that among the available sources is the one described here:

A movie about the Tinker case, made in 1970, portrays the students challenging the rule against armbands. The writers of the script interviewed the students’ parents and the lawyers. The film credits list the writers and producers as members of an organization that opposed the Vietnam war.

How might you determine the reliability of the Tinker movie as a source? Here is one procedure you could follow.

Explain the Skill

One method to evaluate a source’s reliability is to follow these steps. Notice how the steps relate to the example of the Tinker movie.

- 1. Check the qualifications of the people providing the information.** Do they have training or knowledge that qualifies them to write or speak about the topic? Sometimes background on them may be found in the source itself. You can also check to see if the library or Internet has information about them. [We have no evidence that the writers of the Tinker movie are legal experts.]
- 2. Check the reputations of the people providing the information.** Do they have a past history of being accurate? Have they received or won any awards? Might their beliefs or goals affect how they write or speak about this topic? [We do not know whether the writers have a record of accuracy. As opponents of the war, they might be presenting a one-sided story. They might not be accurately describing the legal issues involved in the case.]
- 3. Check the methods the people used in preparing the source.** How did they get their information? Did they provide enough evidence to support their statements? Were their sources reliable? [The information in the movie is probably incomplete because no one seems to have interviewed the students. Also, it is probably one-sided because the school board and the principal do not seem to have been consulted.]
- 4. Check to see if this source agrees with other sources known to be reliable on the topic.** When two or more sources agree with



what your source says, you can be fairly certain that the source you are using is reliable. [You could check records on the Tinker case, as well as articles that legal experts have written about the case.]

Analyze the Skill

Suppose the following sources on the Tinker case were available. Determine which source would be more reliable.

A. A collection of newspaper articles written in 1969 by a Pulitzer Prize-winning journalist. Her articles about the Tinker case include interviews with the three students and with members of the school board. She also relied on quotes from the minutes of school board meetings and on information from local newspapers. In addition, she examined the effect of the Supreme Court's past rulings on individual freedoms. Her explanation of the rulings refers to her sources throughout.

B. A book published in 1970 and written by a past president of the Des Moines school board. The author has also written several books calling for tougher discipline in public schools. The book includes quotes from board members, parents, and teachers regarding the armband protest. Interviews with the superintendent and the principal are included. The book contains summaries of lower court decisions in the case.

Skill Assessment

1. Which one of the two sources described above is likely to be more reliable on the topic of the Tinker case? Explain your answer.
2. Which of the following would be the best source to use to check the accuracy of information about issues in the Tinker case? **(a)** an interview with Mary Beth Tinker **(b)** the written record of the court proceedings **(c)** letters written by the school principal to a principal in another school district
3. Of the following, which one is the best sign of reliability? Explain your answer. **(a)** being published in a book **(b)** being written by someone who has received awards for journalism **(c)** being written by a person who observed the events being described.
4. What is meant by reliability?
5. What are four things you can do to check the reliability of a source?
6. Why is the skill of evaluating the reliability of a source useful for decision making?

SOCIAL STUDIES SKILLS

How to USE PRIMARY SOURCES

In this chapter, you studied two Supreme Court cases dealing with citizens' First Amendment rights. In the section on the Tinker case, you read a passage from the Supreme Court's written ruling. This passage is an example of a primary source. Primary sources are records left by people who observed or were directly involved in the events being described.

Explain the Skill

On this page, you will read primary sources from a 1988 Supreme Court case. In this case, the Court considered whether or not school officials can decide what students may or may not write in school newspapers. The case involved faculty and students at Hazelwood East High School, near St. Louis, Missouri.

Analyze the Skill

Spectrum, the Hazelwood High School newspaper, was published by students in a class called Journalism II. In May 1983, the principal removed two pages from *Spectrum*, stating that these pages contained articles that were inappropriate for a school newspaper. Students in the Journalism II class objected, claiming that the removal of these articles violated their First Amendment rights. The students took their case all the way to the Supreme Court.

After hearing the case, the Supreme Court ruled that Principal Reynolds had *not* violated the students' First Amendment rights. Expressing the Court's opinion on the Hazelwood case, Justice Byron White wrote:

[Principal] Reynolds could reasonably have concluded that the students who had written and edited these articles had not sufficiently mastered those portions of the Journalism II curriculum that pertained [related] to the treatment of controversial issues....It was not unreasonable for the principal to have concluded that such frank talk was inappropriate in a school-sponsored publication distributed to 14-year-old freshmen....Accordingly, no violation of First Amendment rights occurred.

Justice William Brennan disagreed with the majority of the justices. He wrote:

When the young men and women of Hazelwood East High School registered for Journalism II, they expected a civics lesson. *Spectrum*, the newspaper they were to publish, was not just a class exercise in which students learned to prepare papers and hone writing skills, it was a forum established to give students an opportunity to express their views while gaining an appreciation of their rights and responsibilities under the First Amendment to the United States Constitution. ...In my view, the principal broke more than just a promise. He violated the First Amendment's prohibitions against censorship.

Skill Assessment

1. What reasons did Justice White give for supporting Principal Reynolds' decision to censor *Spectrum*?
2. Did Justice Brennan agree with Justice White? Explain.
3. In your opinion, should students be able to print whatever they want in a school newspaper? If not, in what cases should the freedom of a school newspaper be limited?

CHAPTER 6 ASSESSMENT

Building Civics Vocabulary

Each of the following vocabulary terms is related to a general type of protection provided by the Bill of Rights. Match each term with the appropriate type of protection. Then explain how the term relates to that type of protection.

Example: *Double jeopardy* relates to *protection of the accused* because the Bill of Rights protects a person from being tried more than once for the same crime.

1. *separation of church and state*
2. *eminent domain*
3. *due process of law*

- (a) protection against abuse of power
- (b) protection of individual rights
- (c) protection of the accused

Reviewing Main Ideas and Skills

4. Explain how the amendment process works.
5. Why did James Madison think that Congress should add the Bill of Rights to the Constitution as soon as possible?
6. Describe the freedoms protected under the First Amendment and briefly explain why each one is important.
7. **How to Evaluate Sources** Suppose you want to learn more about the Hazelwood case discussed on the previous page. You find a book on the case written by Principal Reynolds. What steps would you take to judge the reliability of this source?
8. **How to Use Primary Sources** Reread the statement by Justice White on page 148. According to White, why were the principal's actions reasonable?

Critical Thinking

9. **Defending a Position** Why are the individual freedoms listed in the First Amendment important in a democratic government?
10. **Linking Past and Present** In 1789, many members of Congress felt the Bill of Rights was unnecessary. If they were alive today, do you think they would still hold the same view? Explain.

Writing About Civics

11. **Writing an Essay** Choose one right protected by the Bill of Rights. Write an essay explaining how this right has been important in your life. Use specific examples to support your explanation.

Citizenship Activities

12. **Working in Groups** In groups of three or four, prepare a skit in which one or more of the rights listed in the Bill of Rights is being violated. Following the skit, the class should identify the right or rights being violated and discuss what actions should have been taken to avoid violating those rights.



Take It to the NET

Access the Civics: Participating in Government Internet site at www.phschool.com for the specific URLs to complete the activity.

Research current issues surrounding the Bill of Rights. Then select one of the amendments and prepare a short summary of a current debate. Discuss this debate in small groups.

