



A Bill of Rights: What No Just Government Should Refuse

Social Sciences: Civics, U.S. History, Government
Social Science SOL: 5.5, 7.1, 11.4, 12.3, 12.4, 12.12
EPS 1992

30-minute program for grades 7-12
Tape and Keep Rights in Perpetuity

In 1791 America ratified the first ten amendments to the Constitution. The Bill of Rights, as these amendments are known, proclaim the sanctity of individual liberty and prohibit the government from abridging fundamental freedoms. The Bill of Rights has endured for 200 years, despite dramatic changes in the political and social life of the nation. While Americans remain committed to his document, they also continue to debate its meaning. Underwritten by the Virginia Commission on the Bicentennial of the United States Constitution with additional funding from Newport News Shipbuilding.

In telling the story of the creation of the Bill of Rights, the program offers a historical perspective on current controversies over the interpretation of rights. The program also looks at how the Bill of Rights has changed since the time of the founders. Together, the historical and contemporary stories address the questions: (1) Whom does the Bill of Rights protect? (2) When there is controversy over interpretation of a particular provision of the Bill of Rights, how do we decide what it means? (3) How does the Bill of Rights protect unspecified rights?

The program begins in the winter of 1788-89, with Thomas Jefferson, then America's minister to France, discussing events in the United States with French associates. During the heated battle over the Constitution, James Madison, principal architect of the Constitution, had argued that a bill of rights was unnecessary. According to Jefferson, Madison had changed his mind after the Constitution was ratified, but his previous opposition to a Bill of Rights was threatening to keep him from being elected to the First Congress. The program leaves France for Orange County, Virginia, where Baptist constituents ask Madison

why the federal Constitution lacks the protection of rights provided by the Virginia Declaration of Rights and the Virginia Statute of Religious Freedom. Madison pledges that he will propose amendments if elected.

In Congress, Madison proposes several changes, one of which guarantees (as he had promised) protection for the freedom of conscience and prohibits the establishment of a national religion. Does the Bill of Rights now provide the protection that Madison sought to provide his Orange County constituents? The program addresses this question with interviews of Stephen Engel (co-plaintiff in the 1962 case *Engel vs. Vitale*, which struck down a state-imposed prayer in the New York public school).

The program returns to Congress in 1789, as Samuel Livermore questions the meaning of Madison's prohibition against "cruel and unusual punishments." Looking at current controversy over the Eighth Amendment, the program explores how the Supreme Court has dealt with the question of whether the death penalty is "cruel and unusual."

Returning again to Congress in 1789, we find Madison introducing the Ninth Amendment: an attempt to protect rights not enumerated in the Bill of Rights. An interview with Harriet Pilpel (who argued the noted "right to privacy" case, *Griswold vs. Connecticut*, 1965) illustrates how unwritten rights have been defined and secured in our own time.

On December 15, 1791, Virginia's ratification of the amendments made the Bill of Rights a part of the Constitution. The program closes with the reflections of Thomas Jefferson and George Mason, soon after the first ten amendments were ratified.