

## Individual Rights

GV366

---

### Activity Introduction

Hello, and welcome to E Learnibus Unum, America's favorite history trivia show! I'm your host, (Name), and we're gonna head straight into Round One!

In order to gain points in this round, you'll need to know a thing or two about your constitutional rights.

### Video 1 - Introduction

Alright, here's an easy one to start you off. The first ten amendments of the United States Constitution are also called... what?

You got it! The Bill of Rights! Take a moment to review those important amendments with the help of this video!

### Video 1

As we've learned, many of the civil rights we enjoy are contained in the 10 amendments that make up the Bill of Rights. What led the framers to add the Bill of Rights to the Constitution, and what do the individual amendments cover?

Like many parts of the Constitution, and the government it established, the Bill of Rights grew out of the framers distrust of the supposed goodwill of governmental officials and

institutions. Many were concerned that the Constitution had established the government, but nothing in it protected the rights of the people.

Think about the list of grievances from the Declaration of Independence. They were worried that without the specific protection of citizen's rights, these injustices could happen again, and tyranny could return. So let's take a quick look at the freedoms and rights guaranteed by the first nine amendments. Again, as we go through these, think about how each of these is the result of things that had happened prior to the American Revolution.

The First Amendment protects our freedom of religion, speech and the press. It goes on to protect our freedom to peaceably assemble, and the freedom to petition the government for the redress of grievances. What? That means we have the right to ask the government to change when we feel they are wrong.

The Second Amendment allows for citizens to keep and bear arms. This was seen as necessary as militias, or volunteer armies, still played an important part in society protecting towns from the British, Native Americans, or even wild animals. Fortunately, they did not protect the right to arm bears. The Third Amendment gives us the right not to have soldiers housed in our homes during peacetime unless we agree to it.

Now the next set of amendments deals specifically with our rights in court. The Fourth, Fifth, Sixth and Eighth Amendments all address the rights of someone who has been accused of a crime. The Seventh Amendment deals with civil cases, or cases that are over disagreements where no law has been broken.

The Fourth Amendment grants our rights against search and seizure of property, except in cases of probable cause, and with the use of a search warrant. The Fifth Amendment requires that charges for a capital crime, or a serious crime, must be

brought by a grand jury. Now a grand jury doesn't determine guilt or innocence, but decides if there is enough evidence to even have a trial. The Fifth is loaded with rights. It also protects us from double jeopardy, or being tried twice for the same crime; the right not to self-incriminate, or testify against yourself; the right to due process, or fair treatment; and the right to adequate compensation in cases of eminent domain. Eminent domain is when the government wants to use your land for the public good. The Fifth Amendment requires that the government give you a fair payment before they can take your land.

The Sixth Amendment protects your rights in trial, the right to a fair trial by jury, and to know the charges against you are part of your basic rights. You also have the right to know who has accused you and to confront any witnesses against you. You even have the right to force a witness to testify on your behalf, and just like on the TV cop shows, if you cannot afford an attorney, one will be provided for you. Again, think about what had happened leading up to the Revolution. These were seen as very real and very important rights, and they still are today.

Now the Seventh Amendment doesn't deal with the rights of those accused of criminal acts, but instead disputes over contracts and debts. As a result, we have the right to a jury trial in a civil case for matters involving more than a certain dollar amount. In the Eighth Amendment, we go back to the right of the accused. Here we have the right not

to be subject to excessive bail or fines, or cruel and unusual punishment. The punishment has to fit the crime.

The Ninth Amendment is a kind of catchall that says that the rights listed in the first eight amendments are not the only rights enjoyed by citizens. The framers didn't want to say these were the only rights we had. The Ninth Amendment is protecting our unenumerated rights.

The personal rights contained in the Bill of Rights are not the only rights Americans enjoy, not by a long shot, but they, along with the Fourteenth Amendment, provide the basis for all later rights created by Congress and protected by the courts.

### **Video 1 – Recap**

The first ten amendments of the Constitution protect our freedoms of speech and religion, keep us safe when we've been accused of a crime, and so much more!

Without the Bill of Rights, the government might have a really hard time defending our freedoms.

Whew!! I sure am glad those framers new what they were talking about.

If you think you know what the framers were talking about, let's move on to a question! Otherwise, let's take another look at that video.

### **Video 2 - Introduction**

Time for Round Three! In Round Three, we'll learn that we're not limited to ONLY those rights and freedoms listed in the Bill of Rights.

The Ninth Amendment states, and I quote: Ahem! "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

Were the framers allergic to language that people could actually read??

Here, this video will clear things up.

## Video 2

The Bill of Rights sets out many basic rights, but Americans enjoy plenty of additional liberties. How does the Constitution protect these additional liberties? As you saw in the last video, the first eight amendments set out a long laundry list of rights. These spelled out, or specific, rights are known as enumerated rights. Unenumerated rights are those not specifically mentioned in the Constitution.

One way for Congress and the courts to justify establishing rights other than those in the first eight amendments is to look to the Ninth Amendment. It states that the people retain rights not mentioned in the first eight amendments, but it doesn't give us any examples. An example of this is your driver's license. Nowhere in the First Amendments does it say that you have the right to or not to drive, in part, because there was no need for driver's licenses in the 18th century. Do you have the right to drive? Yes. Is it spelled out? No. Therefore, it's an unenumerated right. Ta-da! So is this the only use of the Ninth Amendment? Not at all. In fact, it is the cornerstone of such rights as the right to privacy, as we shall see.

Many of the amendments adopted after the Bill of Rights also deal with individual rights. Here's a quick review. The Thirteenth Amendment abolished slavery. The Fourteenth Amendment sets out conditions of citizenship, guarantee due process, and equal protection under the law. The Fifteenth Amendment guaranteed former male slaves the right to vote.

The Nineteenth Amendment guaranteed women the right to vote, and the Twenty-Sixth Amendment guaranteed 18 year olds the right to vote. Other amendments dealing with

voting such as the Seventeenth Amendment allowed for the direct election of Senators. The Twenty-Third Amendment allowed for electors for the District of Columbia, and the

Twenty-Fourth Amendment ended the use of the poll tax and is also to be considered an extension of individual rights.

Congress and the courts have both worked to expand American's rights. The Supreme Court has used constitutional provisions to find other rights that would seem to follow from the Ninth Amendments guarantee of additional rights.

For example, a long line of court cases asserts that Americans enjoy a right to privacy, although that right is not explicitly stated in the Constitution. Beginning with a case called *Griswold v. Connecticut* in 1965, the court has used Due Process Clause of the Fourteenth Amendment, sometimes alone, and sometimes in combination with other amendments such as the ninth to carve out the right to privacy. The most famous case dealing with privacy is *Roe v. Wade* from 1973. This guarantees a women's right to an abortion based on a right to privacy.

The Fourth Amendment protects against the use of illegal searches and seizure by the police, but says nothing about whether the police and courts can use evidence found during an illegal search. A series of Supreme Court decisions has made it clear that illegally obtained evidence cannot be used in court. This is known as the exclusionary rule. Evidence that is illegally gathered has to be excluded from the trial.

This rule was first established in the case of *Weeks v. United States* in 1914; however, this case was applied only to the actions by federal officers like FBI agents. The exclusionary rule was extended to cover actions by state police and state courts in *Mapp v. Ohio* in 1961. The court stated that it was applying the Fourteenth Amendment's Due Process Clause to the Fourth Amendment's protection against illegal

searches. The exclusionary rule was extended to cover wire tapping of telephones in *Katz v. United States* in 1967. This was significant since wire taps often do not amount

to a physical search of a person's property. That is, they can be conducted on telephones such as pay phones that are not owned by the people using them.

Incorporation is the name of the process in which the Supreme Court uses Due Process Clause to apply the protections guaranteed by the Bill of Rights, which as you recall concern only the actions of the federal government to the actions by the states.

The Bill of Rights has been incorporated to provide protections against the constitutional violations of the states, with the exception of the Second, Third and Seventh Amendments. Thanks to the Constitution, the courts and Congress, Americans enjoy a wide variety of rights. Many of them are stated outright in the Constitution, others have been inferred from those. What are those rights? Unenumerated. Through the Due Process Clause and the doctrine of incorporation, the most important rights all have constitutional protection.

## **Video 2 - Recap**

The first eight amendments guarantee us certain rights that are enumerated, or specifically and clearly written out.

Clearly, not every right can be listed in the Constitution. Do we REALLY need amendments giving us the freedom to fly kites or hate cats or never cut our hair? I don't think so.

Instead, the framers added the Ninth Amendment, which states that in addition to the important rights already listed in the Constitution and the Bill of Rights, there are other, unenumerated rights that aren't listed, but which are still protected.

Congress and the Supreme Court have worked together to figure out what some of those individual rights are. They're listed in later amendments, like the thirteenth, fourteenth, fifteenth, nineteenth, and twenty-sixth amendments.

Allow me to enumerate your choices here: You can move on to some questions, or you can see the video again.

### **End of Activity Review**

Today's lightning bonus round topic... Freedoms and Rights in the United States!

Alright Mr. Bob LaBlah, first question: The First Ten Amendments make up the...?

Ooooh, sorry, the Ten Declarations is close but not correct. (crowd goes awwwww) The correct answer is the Bill of Rights.

Okay, Sally Sassafrass, the amendment that extended the Bill of Rights to the states is the...?

(ding ding ding!) The Fourteenth Amendment is correct! (ding ding ding!)

Okay, final question: All of the following freedoms and rights are listed in which amendment?

Religion, speech, press, assembly, and petition..?



I'm sorry Bob, but the Forty-fifth Amendment is incorrect. The First Amendment is correct and Sally is our new winner!!!! That's it for this episode of E Learnibus Unum. Thanks for joining us!