

Mr. Madison's Bill of Rights

Purpose:

This lesson focuses student attention on how rights- particularly those enumerated in the First Amendment - help maintain popular government and more broadly, the American vision of the "ideal society." Through its protections of free expression and religious beliefs, the First Amendment encouraged the free exchange of ideas, thus checking potential abuse by government. Yet, such protections were not entirely new to colonial Americans, who had begun to incorporate such "ideals" in their earliest state constitutions. Students will explore the historic roots of the guarantees of the First Amendment and their influence on the final Bill of Rights, submitted by James Madison to the first Congress.

Procedure:

1. Ask students to think about their vision of an "ideal community" in which they would like to live. Ask them to compose a "focused free write" for two minutes, listing the characteristics or features of an "ideal society." When finished, ask how many students mentioned rights or freedoms on their list. What are common rights found on many lists?
2. Point out that when the framers met at the Constitutional Convention, they were attempting to create a structure for government that would fulfill their vision of an "ideal society." They agreed that a republican form of government was essential for that vision. They also agreed that rights were necessary, however, they disagreed about whether those rights should be specified in the national Constitution. Using the handout "Debate Over the Bill of Rights," ask students to read about the ratification process and the controversy over the addition of a Bill of Rights.
3. As background to the ratification debates, divide students into pairs. Ask each pair to review the chart "Mr. Madison's Proposals" and answer the questions found at the bottom of the chart. Emphasize to students that one of the reasons that some framers found a Bill of Rights as unnecessary was the fact that many state constitutions had already listed individual rights and liberties in their state documents.
4. Distribute to each pair of students the correspondence between Jefferson - who was not present at the Constitutional Convention due to his duties in France - and Madison. (See handout "Madison, Jefferson and the Bill of Rights.") Ask each member of the pair to assume the viewpoint of either Jefferson or Madison. Together, the pair will create a "Poem for Two Voices" restating in their own words the main ideas found in this correspondence.
5. Allow time for pairs to voluntarily read their Poems for Two Voices. Conduct a classroom discussion about the role both Jefferson and Madison played in influencing the establishment of an "ideal society."
6. Point out that other rights beyond the First Amendment are also protected in the Bill of Rights - all contributing to the goals of an "ideal society." Provide students with a copy of the handout "Historic Roots of the First Amendment and Other Constitutional Amendments." Examine the third column of this chart carefully. Which amendments were written based on abuse by the British government during the colonial era?

Which amendment(s) was written out of fear that the national government would grow too powerful? Which amendments attempted to correct inequities toward certain groups of people? How would passage of either of the two proposed amendments have contributed to an "ideal society?"

7. For extension or enrichment, encourage students to read newspapers, seeking articles about any of these rights and liberties being exercised by citizens today. In what ways do citizens continue to develop an "ideal society?"



DEBATE OVER THE BILL OF RIGHTS

When the Constitution was submitted to the states for ratification in 1787, it did not include a bill of rights. Some delegates to the constitutional convention refused to sign the Constitution because of this.

It quickly became a conflict debated in the ratification debates.

James Madison, Alexander Hamilton, and John Jay, supporters of the new Constitution, said a bill of rights was not needed. They argued that the new government's structure—with separation of powers and checks and balances among the three branches—would protect people's rights. Also, they said a bill of rights was unnecessary because many state constitutions already had such guarantees.

The opponents, who were called the Anti-Federalists and included such people as George Mason and Mercy Otis Warren, said a bill of rights was needed. They remembered life under the British government and feared that the new Constitution could abuse the rights of individuals.

After many months of debate, the two groups compromised and ratified the Constitution! They agreed that a bill of rights would be added to the Constitution as soon as the first Congress met.

James Madison, who represented the state of Virginia in the first Congress, promised he would introduce a bill of rights. He had changed his mind about a bill of rights being needed.

Madison was elected and took on the job of going through all the 13 states' Constitutions. He was looking for ideas about what rights the people of the new United States wanted to be added to the new Constitution. This became a long list - Virginia alone had suggested dozens of ideas!

Mr. Madison thought the Bill of Rights would have a better chance of being adopted if it was not too long. So, he drafted a list of 17 amendments. After much debate among members of Congress, they passed a total of 12 amendments. Out of those, only 10 were approved by the states! Today, those 10 amendments are called the Bill of Rights. And many people feel that the First Amendment is one of the very most important!

**Mr. Madison's Proposals for a Bill of Rights:
Roots in State Constitutions**

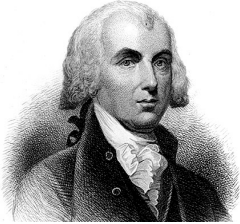
James Madison proposed a list of rights he felt should be added to the new U.S. Constitution in 1787. Already, several of these rights had been written into new state constitutions (the original thirteen colonies).

* X= Protection or Right expressly guaranteed in state constitution.

Right:	VA.	PA.	DE.	MD.	NC.	MA.	NH	Madison's Proposals
To alter government, when necessary		X			X	X	X	X
Religion			X	X	X	X	X	X
Speech		X						X
Press	X	X	X	X	X	X	X	X
Assembly	X			X	X			X
Petition	X	X	X	X	X			X
Bear Arms		X	X		X	X		X
Double Jeopardy							X	X
Excessive Bail				X	X	X	X	X
Cruel or Unusual Punishment	X		X	X	X	X		X
Speedy & Public Trial	X	X	X	X	X	X	X	X
Search and Seizure	X	X	X	X	X	X	X	X
Attorney		X	X	X		X	X	X
Free Elections	X	X	X	X	X	X	X	X
Public Schools						X	X	

Madison, Jefferson, and the Bill of Rights

We should remember that both James Madison and Thomas Jefferson supported civil liberties. During the struggle over the Constitution, however, the two did not always agree on the importance of a bill of rights. Madison wanted the Constitution ratified quickly with no amendments. Jefferson, on the other hand, was a strong supporter of a bill of rights which he believed was needed for the protection of liberty. Jefferson was not at the Constitutional Convention, but he and Madison wrote many letters to each other. Their ideas influenced the first ten amendments, which Americans hold so dear today...

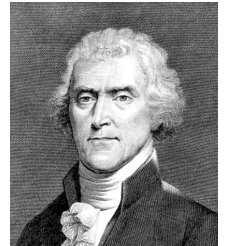


It may be asked how private rights will be more secure under the general government than under the state governments?

October 24, 1787

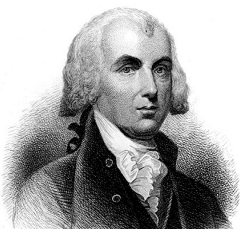
I do not like...there is no bill of rights providing clearly for the freedom of religion...A bill of rights is what the people are entitled to....

December 20, 1787



I rejoice at the acceptance of our new Constitution by nine states ...I hope a bill of rights will be formed to guard the peoples as they are already guarded (under) state governments.

July 31, 1787



In Virginia, I have seen the bill of rights violated in every instance... Where the real power lies, there is the danger of oppression.

October 17, 1788

A POEM FOR TWO VOICES

I am **JAMES MADISON.**



I am **THOMAS JEFFERSON.**



**Ratifying the Constitution:
The Need for a Bill of Rights!**

*(Declare what side I have taken
this side of the debate over a
Bill of Rights.)*

*(Declare what side I have taken
this side of the debate over a
Bill of Rights.)*

(Declare a point of agreement.)

*(Explain the reasoning behind
my point of view.)*

*(Declare another point of
agreement or rephrase earlier
statement.)*

*(Explain the reasoning behind
my point of view.)*

*(Respond to the previous
statements made by Jefferson.)*

*(Summarize with a strong
statement what we both
agree upon.)*

*(Respond to the previous
statements made by Madison.)*

Historic Roots of the First Amendment and Other Constitutional Amendments

<u>Amendment</u>	<u>Right(s)</u>	<u>Historic Roots</u>
1 Freedom	<ul style="list-style-type: none"> • Freedom of Religion • Freedom of Press • Freedom of Speech • Freedom of Assembly 	The British government had suppressed speech, assembly and press rights in an attempt to stop the growing colonial rebellion.
2 Right to Bear Arms	<ul style="list-style-type: none"> • Right to keep and bear arms 	During the American Revolution, the English attempted to ban militias from forming.
3 No Quartering	<ul style="list-style-type: none"> • Right to protection from troops being quartered in homes during peacetime 	The Quartering Act passed by English Parliament required the colonists to house and feed British troops stationed in the colonies.
4 Search and Seizure	<ul style="list-style-type: none"> • Right against unreasonable search and seizure 	British troops often searched houses and property to try to force colonists to pay taxes on all sorts of goods and papers.
5 Rights of the Accused	<ul style="list-style-type: none"> • Charges brought by a Grand Jury • Cannot be tried for the same crime twice (double jeopardy) • Cannot be forced to testify against yourself • Right to a fair trial 	Many people in the colonies were jailed without being accused of a crime.
6 More Rights of the Accused	<ul style="list-style-type: none"> • Right to a speedy and public trial • Right to an jury • Right to counsel (a lawyer) 	British courts could keep a suspect in jail, not giving them a fair trial. Many suspects sat in prison for years awaiting trial, only to be found innocent and released.
7 Rights in a Civil Case	<ul style="list-style-type: none"> • Right to a trial by jury in a civil case (non-criminal case) 	This protected the idea of trial by jury and extended it to all situations.
8 Cruel and Unusual Punishment	<ul style="list-style-type: none"> • Right to protection against cruel and unusual punishment 	Huge fines and lengthy sentences were given for minor crimes.
9 Unenumerated Rights	<ul style="list-style-type: none"> • Guarantee that rights not enumerated (listed) in the Constitution are still protected 	The founding fathers wanted to be certain that rights listed in the Bill of Rights were not the only possible rights.
10 Reserved Rights	<ul style="list-style-type: none"> • Guarantee that the people and the states have all of the powers not given to the federal government 	To protect citizens of the future, the Constitution gives the people and states all other powers.