

Mr. Madison's Ideal Society

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 society in which they would like to live. Ask them to compose a "focused free write" for two minutes, listing the characteristics of 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 why some framers found a Bill of Rights 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 the omission. It quickly became an issue in the ratification debates.

James Madison, Alexander Hamilton, and John Jay, authors of the *Federalist Papers*, said a bill of rights was unnecessary. They argued that the new government's structure—with separation of powers and checks and balances among the three branches—would prevent rights from being violated. Furthermore, they said the Constitution clearly indicated that the government had limited powers. If a bill of rights were included, it might suggest that only those rights listed in it were protected. Finally, they said a bill of rights was unnecessary because many state constitutions had such guarantees.

The opponents, who were called the Anti-Federalists and included such people as George Mason, Edmund Randolph, Elbridge Gerry, and Mercy Otis Warren, said a bill of rights was absolutely necessary. Remembering the tyranny of the British government, the Anti-Federalists feared that the stronger federal government created by the Constitution would abuse the rights of individuals.

After many months of debate, the Federalists compromised with the Anti-Federalists to get the large and important states of Virginia and New York to ratify the Constitution. The Federalists agreed that a bill of rights would be added to the Constitution as soon as the first Congress was convened.

James Madison, who had originally opposed a bill of rights, said in his campaign for the first Congress that, if elected, he would introduce a bill of rights. He had come to believe that a bill of rights was necessary. Madison had always been concerned about the majority taking away the rights of minorities. He thought a bill of rights would help the courts protect minorities.

Madison was elected and took on the job of going through all the changes the delegates had suggested. This was a long list; Virginia alone had suggested dozens. Madison thought the Bill of Rights would have a better chance of being adopted if it was not too long. He drafted a list of 17 amendments that was proposed to Congress. After much debate and rewriting, Congress passed a list of twelve amendments, and of those, ten were approved by the states!

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

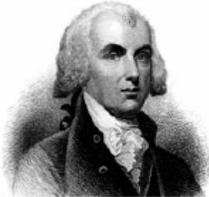
James Madison proposed a list of rights he felt should be added to the new U.S. Constitution in 1787. Already, several of these rights had been written into new state constitutions (the original thirteen colonies).

** 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 know that both James Madison and Thomas Jefferson for their sympathies for 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 advocate of a bill of rights which he believed was absolutely necessary for the preservation of American liberty. The Madison-Jefferson correspondence may have influence the first ten amendments, which Americans hold so dear today...

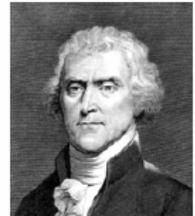


It may be asked how private rights will be more secure under the guardianship of the general government than under the state governments since they are both founded on the republican principle which refers the ultimate decision to the will of the majority.

October 24, 1787

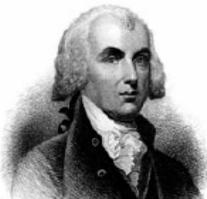
I will now add what I do not like. First, the omission of a bill of rights providing clearly for the freedom of religion and trial by jury. To say that a bill of rights is not necessary is absurd...A bill of rights is what the people are entitled to against every government on earth.

December 20, 1787



I sincerely rejoice at the acceptance of our new Constitution by nine states. It is a good canvas on which some strokes only want for retouching...I hope a bill of rights will be formed to guard the peoples against the federal government as they are already guarded against their state governments in some instances.

July 31, 1787

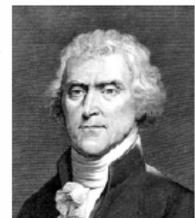


My own opinion has always been in favor of a bill of rights. Repeated violations have been committed by overbearing majorities in every state. In Virginia, I have seen the bill of rights violated in every instance where it has been opposed to a popular current. Where the real power lies, there is the danger of oppression.

October 17, 1788

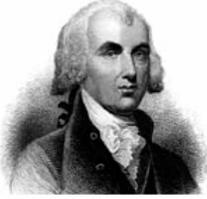
Your thoughts on the subject of a declaration of rights I have weighed with great satisfaction. It is like all other human blessings...Half a loaf is better than no bread. If we cannot secure all our rights, let us secure what we can.

March 15, 1789



A POEM FOR TWO VOICES

I am **JAMES MADISON.**



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

(Explain the reasoning behind my point of view.)

(Respond to the previous statements made by Jefferson.)

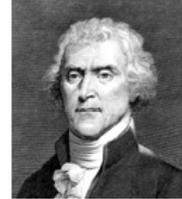
**Ratifying the Constitution:
The Need for a Bill of Rights!**

(Declare a point of agreement.)

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

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

I am **THOMAS JEFFERSON.**



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

(Explain the reasoning behind my point of view.)

(Respond to the previous statements made by Madison.)

Historic Roots of the First Amendment and Other Constitutional Amendments

The most significant amendments to the Constitution are the first ten, also known as The Bill of Rights. These amendments were added to the Constitution at the insistence of the Anti-Federalist forces during the debates over ratification.

The fear of a dominating federal government, such as the colonists had experienced under English rule, led many to demand assurances that specific rights and liberties were going to be protected.

<u>Amendment</u>	<u>Right(s)</u>	<u>Historic Roots</u>
1 Freedoms	<ul style="list-style-type: none"> Freedom of Religion Freedom of Press Freedom of Speech Freedom of Assembly Separation of Church and State (no national religion) 	The English gov't had suppressed speech, assembly and press rights in an attempt to quell the growing colonial discontent. Additionally, many early settlers came to America in search of religious freedom.
2 Right to Bear Arms	<ul style="list-style-type: none"> Right to keep and bear arms 	In the period prior to the revolution, the English attempted to limit militia activity as they rightly feared preparations for a coming revolution.
3 No Quarter	<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 Warrants require cause and must be specific 	British troops often search houses and property at will, in an attempt to suppress organizations working towards a revolution.
5 Rights of the Accused	<ul style="list-style-type: none"> Indictment 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 Right to fair compensation when the gov't takes your property for public use 	Many accused under British law in the colonies, were jailed without being accused of a crime. It was also not uncommon for a person in the colonies to be tried under the laws of Britain, without regard to the local laws passed within the colonies.
6 More Rights of the Accused	<ul style="list-style-type: none"> Right to be informed of the charges against you Right to a speedy and public trial Right to an impartial jury Right to face witnesses against you in court Right to counsel (a lawyer) Right to call witnesses in your defense 	In the era prior to the revolution, British courts could keep a suspect in jail without accusing him/her of a crime or bringing them into a court of law. 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 provision protected the idea of trial by jury (a foundation in both English law) and extended it to all cases private or public.
8 Cruel and Unusual Punishment	<ul style="list-style-type: none"> Right to protection against cruel and unusual punishment Right to protection against excessive bails and fines 	English colonial courts did not enforce the law evenly or fairly in the eyes of many. Excessive fines were levied for small offenses and lengthy sentences were given for minor offenses.
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 thought to be 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 specifically delegated the federal government (reserved powers) 	Many of the founding fathers feared the domination of the people and the states by a powerful federal government. To insure the containment of this power, people and states are granted all the powers that the federal government is not.

Additional Amendments

<u>Amendment</u>	<u>Provisions/Rights</u>	<u>Historic Roots</u>
11 State Immunity (1795)	<ul style="list-style-type: none"> Limits the ability of a person to sue a state Allows a person to sue if a state denies their rights 	
12 Election of President and V.P. (1804)	<ul style="list-style-type: none"> Electors to the Electoral College are to cast one vote for President and separate vote for Vice President The House elects the President if no candidate gets an electoral majority (each state w/ 1 vote) The Senate elects the Vice President if no candidate gets an electoral majority 	In the election of 1800, confusion in the Electoral College resulted from the requirement that the runner-up for president become president. Further confusing was the fact that electors could cast votes for Vice Presidential candidates for President. The final result was the election of Thomas Jefferson and the 12th amendment.
13 Abolition of Slavery (1865)	<ul style="list-style-type: none"> Slavery is illegal 	The end of the Civil War saw a series of three amendments designed to grant greater equality to former slaves.
14 Equal Protection Under the Law (1868)	<ul style="list-style-type: none"> Declares that all citizens are guaranteed equal treatment and protection under the law 	This has proven one of the most significant amendments outside the Bill of Rights. Equal protection is the basis for all modern civil rights laws, disability acts and other actions designed to protect minority rights.

15 Right to Vote (1870)	<ul style="list-style-type: none"> • Insures black males the right to vote 	Despite this amendment, poll taxes and literacy tests would attempt to deny black males voting rights in the southern states for nearly 100 years.
16 Income Tax (1913)	<ul style="list-style-type: none"> • Grants Congress the power to collect taxes on income • Money collected does not have to be reapportioned to states based on population 	
17 Direct Election of Senators (1913)	<ul style="list-style-type: none"> • Senators are to be elected by the people 	The original Constitution provided for Senators to be elected by state legislatures. This amendment was designed to increase people's participation in government.
18 Prohibition (1919)	<ul style="list-style-type: none"> • The sale, making or transportation of alcohol is illegal 	
19 Women's Suffrage (1920)	<ul style="list-style-type: none"> • Women are granted the right to vote 	Women such as Susan B. Anthony fought for a voting rights amendment for over 40+ years.
20 Presidential Inauguration (1933)	<ul style="list-style-type: none"> • President and Vice President are sworn into office on Jan. 20th (moved from March 4th) 	The election occurred in November, but presidential terms began in March of the next year. As a result nearly 5 months went by during which the "lame duck" president could do very little. This amendment shortens the "lame duck" time by moving inauguration up by 2 months.
21 Repeal of Prohibition (1933)	<ul style="list-style-type: none"> • The 18th amendment (prohibition) is repealed • Alcohol is again legal 	Prohibition was regarded as a huge failure.
22 Presidential Term Limits (1951)	<ul style="list-style-type: none"> • No person may serve as President more than twice 	George Washington had set the precedent of two terms. All other presidents continued to serve no more than two terms, up until FDR was elected a record four times. After his administration ended, there was widespread support for a formal limit on presidential terms.
23 Voting in Washington D.C. (1961)	<ul style="list-style-type: none"> • Grants Washington D.C. 3 electors to the electoral college 	Residents of the capitol did not have any political voice in federal government. This amendment grants them the minimum number of electors. (Today Washington D.C. still has no Senators or Reps. to the House.)
24 Abolition of Poll Taxes (1964)	<ul style="list-style-type: none"> • Poll taxes are illegal in federal elections 	Many Southern states had used poll taxes and literacy tests to limit black voting after the Civil War. Literacy tests were already illegal by the 1960's, but an amendment was required to outlaw the poll tax.
25 Presidential Succession (1967)	<ul style="list-style-type: none"> • Establishes a clearer succession to the presidency and vice presidency 	In the wake of JFK's assassination, a clearer chain of ascension to the nations' highest offices was needed.
26 Voting Age (1971)	<ul style="list-style-type: none"> • The age of eligibility for voting is lowered to 18 	During the Vietnam War, it became clear that if 18 year-olds could be drafted they should be able to cast a vote.

<p>27 Congressional Pay Raises (1992)</p>	<ul style="list-style-type: none"> • Congressional pay raises do not take effect until after the next Congressional election 	<p>The process for this amendment was begun in the 1790's. It keeps a current Congress from raising its own salary.</p>
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Amendments Never Ratified:

Of the hundreds of amendments to the Constitution that have been proposed over the past 200+ years, only 27 have become part of the Constitution. A few notable amendments that have gained popularity, but failed to become law are listed below.

<u>Proposed Amendment</u>	<u>Provisions/Rights</u>	<u>Historic Roots</u>
<p>Equal Rights Amendment (E.R.A.)</p>	<ul style="list-style-type: none"> • Proposed a guarantee of equal rights for women 	<p>This amendment gained popular support following the feminism movement of the 1960's and 70's. It was eventually deemed unnecessary, as the Supreme Court has interpreted the 14th amendment's equal protection provision to apply to women and other groups of minority status.</p>
<p>Flag Burning</p>	<ul style="list-style-type: none"> • Proposed to outlaw the burning of the US flag 	<p>In the Supreme Court case <i>Texas v. Johnson (1990)</i>, the court ruled that burning the US flag was protected speech under the 1st amendment.</p>