

THE BILL OF RIGHTS

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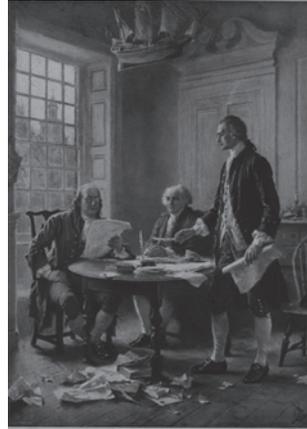
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TABLE OF CONTENTS

Extension Activities	1
Quiz: <i>The Bill of Rights</i>	4
Answer Key: <i>The Bill of Rights</i>	9
Lecture Notes.....	17
Student Handouts.....	121

“Rights and Responsibilities”

- The meaning behind “rights and responsibilities”
- Americans’ understanding of the Bill of Rights
- What does it all mean?



“Rights and responsibilities”—nearly every civics or government course in America centers on these three words. Thomas Jefferson wrote in the Declaration of Independence that people “are endowed by their Creator with certain inalienable rights...,” meaning that these rights begin at birth and cannot be taken away. In practice, of course, it’s not quite that easy. One must be responsible with their rights in order to keep and enjoy them.

For years, surveys have shown that Americans have a general idea of which rights they possess, but do not have a solid understanding of the extent or limitations of these rights. One recent survey showed that while many high school students feel the First Amendment goes too far in granting rights, these same students have a poor grasp of understanding how much control the government exercises over these rights. Other studies have shown that many Americans, when presented the Bill of Rights in modern language, believe that the rights it describes are overly broad or unworkable in today’s society.

What does all of this mean? Citizens of the United States have a responsibility to know and understand their rights; those who don’t may find that the rights they thought they had aren’t actually there. Benjamin Franklin best summed this up soon after the drafting of the Constitution: when asked whether the new country he had helped found was a republic or a monarchy, he stated, “A republic, if you can keep it.”

“Rights and Responsibilities”

- Rights and their responsibilities are inseparable
- The Framers drew from the past to build for the future
 - Roman Republic
 - Enlightenment philosophy
 - English law
 - American colonial history
- The rights granted evolved over time



The idea of enjoying one’s rights and taking responsibility for them has a historical basis, and the two ideas are inseparable. Each preserves and strengthens the other. The most effective way to retain one’s rights is to know and understand them.

Many concepts in the Bill of Rights can be traced back to several points in human history: the Roman Republic, the Enlightenment, traditions from English law, and colonial experiences in America before and during the Revolution. The framers of the Bill of Rights drew from many sources to craft in words the traditions, laws, and governing policies of past civilizations. The protection of rights such as private property, due process of law, a fair trial, a punishment befitting the crime, no taxation without representation, and freedom of speech evolved over centuries and was incorporated into the Bill of Rights.

The Roman Republic

The Roman Republic's influence on the Bill of Rights:

- Roman law based on laws of nature
- Laws established equality and justice
- Limited the power of the state
- Created laws that protected property, contracts, and promoted equality
- Stressed the responsibility of civic virtue



The leaders of the Roman Republic believed that people were ultimately governed by the laws of nature, which limited the powers of the state. The first five words of the First Amendment embody this idea of limited state power: “Congress shall make no law...” The Romans believed that laws should establish equality and justice: therefore, they created laws regulating contracts, inheritance, and property rights in order to provide a certain equality among different segments of society.

The Romans, however, placed more emphasis on the rights of groups than on individual rights. They spoke highly of “civic virtue,” the obligation of society to set aside personal interests and promote the common welfare. The Romans believed that understanding civic virtue didn't come to people automatically, and that its aspects of generosity, courage, self-control, and fairness had to be taught. People, they thought, should learn the importance of actively participating in government, a responsibility all citizens had toward their community.

Influences from English Law

Magna Carta (1215)

- Defined the power of the monarchy
- Protected barons' rights to property, trial by their peers, and taxation only by consent

Glorious Revolution (1689)

- Placed Parliament above the monarchy
- Gave Parliament freedom of speech
- No quartering of troops in people's homes
- No punishment without cause



The Magna Carta

The Framers of the Bill of Rights also drew heavily from English law, since many of the rights colonists had enjoyed as subjects of the Crown (and had defended in the Revolution) had been established centuries earlier.

The Magna Carta (1215) resulted from a conflict between King John and 40 of his barons. For years, the king had violated their rights to property and justice and taxed them without their consent. The barons demanded that the king abide by common law and honor their ancient rights. At first he refused, but he eventually met their terms in order to gain funding and support for his wars in France. The Magna Carta defined the power of the monarchy regarding legal procedures and proclaimed that the law constrains even the will of the king. Based upon this precedent, the Framers incorporated into the Bill of Rights familiar provisions such as no taxation without the consent of the governed, no seizure of property without just compensation, trial by a jury of one's peers, and no punishment without a trial.

The rights enumerated in the Magna Carta underwent many revisions and repeals, but were eventually extended to the general population. During England's Glorious Revolution of 1689, Parliament (now the major legislative body for British citizens) firmly established both fundamental rights for the people and limitations on the monarch's power, including Parliament's legislative supremacy over the king, the right of citizens to petition the government, freedom of speech within Parliament, and (in accordance with the Petition of Right) no quartering of troops in people's homes or punishment of citizens without just cause.

Enlightenment Philosophy

Humanists promoted the dignity of the individual and identified the rights of man

- Voltaire advocated freedom of speech, religion, and the right to a fair trial
- Locke spoke of the right to life, liberty, and property
- Government should protect these rights

Locke



Voltaire



The period known as the Enlightenment was an intellectual movement that began in the 17th century that extended well into the 18th century. Advances made in science, mathematics, and the arts during the Renaissance led to the questioning of a number of European traditions. This inquiry meshed with the philosophy of humanism: the study of the values, capacity, and achievements of human beings. Humanists believed in the dignity and potential of the individual. They argued that human reason was superior to all other modes of thinking (such as superstition, faith, or brute force) and that humans could improve their world first by understanding it and then changing it. Enlightenment thinkers brought to humanist philosophy a stronger emphasis on the rights of the individual, as opposed to the group rights promoted by the Romans.

Two of the most influential Enlightenment philosophers who spoke of the rights of man were Francois Marie Arouet (better known as Voltaire) and John Locke. Voltaire, though known for his preference for an “enlightened monarchy,” nonetheless strongly advocated such civil rights as freedom of speech, the right to a fair trial, and freedom of religion. In his work *Two Treatises on Civil Government*, John Locke brought forth the idea that people have natural rights to life, liberty, and property acquired through their labor. People, he thought, should create governments that would protect these rights.

Colonial American Experiences

Experiences before and during the American Revolution

- English rights to life, liberty, and property brought to the American Colonies
- Most Americans had more equality than the British
- Plentiful land and economic opportunities



The
Pilgrims'
landing

The English brought their rights to the American colonies during the early stages of settlement. A curious thing began to happen as colonists carved out their livelihoods and established their governing institutions: the English rights to life, liberty, and property were applied more broadly in the colonies. In Britain, land had become the primary factor in determining a person's rights, economic status, and political clout. A number of powerful families already owned much of the land in Britain, and they passed their holdings (the monetary value along with the power it brought) on to the next generation. The majority of British citizens had little opportunity to enjoy the same rights as landowners.

In the colonies, however, land was cheap and plentiful. While colonial society did have its own class and social distinctions, the wide range of economic opportunities available made such differences less important. Any white male with 50 acres of land had the right to vote in most colonies. Moreover, wealth and family connections didn't automatically bring success. Everybody had to work hard, and in turn everyone expected to enjoy the same general level of political rights. As a result, most Americans enjoyed far more social, political, and economic equality than most Englishmen.