

Name: _____ Class: _____

The Bill of Rights in a Changing America

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2018

In this informational text, Ben Slivnick discusses the first ten amendments of the United States Constitution. Known as the Bill of Rights, the Supreme Court often refers to these amendments to make decisions today.

- [1] It was December 1965, nine years into the United States' involvement in the Vietnam War. John and Mary Beth Tinker and their friend Chris Eckhardt walked into their schools in Des Moines, Iowa, wearing black armbands to protest this bloody conflict.

The students were promptly suspended. Just as promptly, their parents sued the school district.

A judge's initial decision lifted the suspension, siding with the students. An appeals court reversed this decision. Ultimately, the U.S. Supreme Court, which has final say on interpreting the Constitution and all federal legal matters, ruled that the students should be allowed to express their political opinions at school, as long as they do not interfere with learning.



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John, Chris, and Mary Beth's actions were found to be symbolic speech, constitutionally protected under the First Amendment, the first of ten which make up the Bill of Rights. These are a set of ideals meant to ensure basic human liberties for all U.S. citizens.

- [5] How did the Supreme Court get the idea that students should be allowed to protest at schools from the 45 words of the First Amendment? Well, they weren't always interpreted that way. The way that the Bill of Rights has been viewed has changed over the years, but the words themselves stay the same. By interpreting and reinterpreting the words of the Constitution and Bill of Rights, our courts are able to use the guiding principles of these ancient documents to make decisions in a modern world.

The History of The Bill of Rights

On Sept. 17, 1787, the U.S. Constitution was submitted to be signed and ratified.¹ After four sweaty summer months spent drafting and debating, representatives from states left the Philadelphia Convention with a vision for how the country's government would act.

1. to make something officially valid

But there was a problem. There was no vision for how the government was not allowed to act. With fresh memories of the oversteps of the British government, a group known as the Anti-Federalists refused to sign onto the Constitution without assurances protecting their “natural rights,” rights that they asserted were given to them by God, and which could not be violated by any government.

These natural rights became the Bill of Rights, which was ratified as the first ten amendments, or additions, to the Constitution.

The Bill of Rights: An Overview

The Bill of Rights included a wide range of protections.

- [10] The First Amendment protects freedom of religion, the freedom of the press, and the right to assemble, in addition to the freedom of speech at issue in the Tinker case.

The Second Amendment gives individuals the right to own firearms, stating that, “a well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.”² The Third Amendment is less relevant to our modern lives. It says that the government cannot force you to house soldiers unless Congress passes a law in a time of war.

The Fourth Amendment protects against unfair searches by law enforcement, while the following four amendments outline a person’s rights during and after trial. The Eighth Amendment, for example, states that “excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

The last two amendments ensure that citizens have rights in addition to those spelled out by the Bill of Rights. They also give states the right to create laws — as long as they do not contradict the Constitution.

At the time of its writing, the Bill of Rights was only intended to protect land-owning white males, but it nevertheless represented the broadest protections for citizens by any established Western government. Still, it raised as many questions as they answered.

- [15] Any case that arises out of an issue or question related to the Constitution can be reviewed by the Supreme Court, although most are settled in lower courts. When the case is appealed to the highest courts, the nine Justices of the Supreme Court may decide to hear a case and come to a ruling that will bind all courts below them. Even now, more than two hundred years after it was created, there are constant questions about how the Constitution and its adjoining Bill of Rights should be interpreted to apply to our changing society.

The First Amendment: Changing Interpretations

Let’s look at one amendment, the First Amendment, as an example of how the Supreme Court has changed the way we interpret the Bill of Rights over time.

2. **Infringe (verb):** to break an agreement, or act to undermine something

Leading up to 1969's *Tinker vs. Des Moines* decision, the court read the amendment in a number of ways that restricted speech. For instance, after a man falsely yelled "fire!" in a crowded movie theater, it ruled that any speech that incites³ "imminent lawless action" was not protected by the First Amendment.

The Court shaped our understanding of the text to mean that you have freedom of speech as long as the speech doesn't endanger others. In that same vein, the Court later ruled that threats and "fighting words," intended to provoke a physical or verbal confrontation, were not protected by its understanding of the First Amendment's text.

Could political speech be a form of "fighting words?" In the *Tinker* case, the court clarified this ambiguity.⁴ In considering the precedent, *Tinker v. Des Moines* interpreted the First Amendment to protect political speech — even for students, as long as their speech did not "materially and substantially interfere with the requirements of appropriate discipline in the operation of the school."

[20] "It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate," Justice Abe Fortas wrote, explaining the decision.

But after *Tinker*, further questions remained unanswered. Can students say anything at school? Once again, the Supreme Court would have to step in to interpret the words of the First Amendment and clarify.

In the 1986 court case *Bethel School District v. Fraser*, the court answered this question with a clear no. A public school student sued after being suspended for giving a speech at a school assembly including lewd⁵ and graphic content. The court ruled that the school had not "abridged" this student's freedom of speech.

"The First Amendment does not prevent the school officials from determining that," Justice Warren Burger wrote, "to permit such a vulgar and lewd speech such as [the] respondent's⁶ would undermine the school's basic educational mission." Moreover, "It was perfectly appropriate for the school to make the point to pupils that vulgar speech and lewd conduct is wholly inconsistent with the 'fundamental values' of public school education."

Other Amendments In Action

Other amendments, of course, are also open to the court's interpretation. You read the quote from the Eighth Amendment, barring "cruel and unusual" punishments earlier. A 1966 case, *Kent V. United States*, decided that trying teenagers as adults in a court of law did not meet these standards, and later, in *Stanford v. Kentucky*, it upheld the possibility of capital punishment for older teens.

[25] But in 2005, the court ruled that despite these precedents, it would indeed qualify as "cruel and unusual" to execute teenagers convicted of crimes. The court cited "evolving standards of decency" to support how the "cruel and unusual" clause was interpreted.

3. **Incite (verb):** to encourage or stir up bad behavior
4. **Ambiguity (noun):** the quality of being inexact
5. crude and offensive
6. the defendant in a lawsuit

“From a moral standpoint, it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor’s character deficiencies will be reformed,” Justice Anthony Kennedy wrote on behalf of the court.

The Bill of Rights grants freedoms, but also draws lines about where those freedoms stop. The Supreme Court has calibrated⁷ these boundaries through a constant reinterpretation of the Constitution and its amendments.

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7. to adjust something so it can be used in an exact way

Text-Dependent Questions

Directions: For the following questions, choose the best answer or respond in complete sentences.

1. PART A: Which statement identifies the central idea of the text?
 - A. The Supreme Court interprets the Bill of Rights to protect and limit personal rights in a way that makes sense in modern day.
 - B. When the Bill of Rights was first established, the rights protected for civilians were too far-reaching and required the Supreme Court to eventually limit them.
 - C. The Bill of Rights has historical value, but it is too outdated for Supreme Court justices to refer directly to it in cases.
 - D. The Supreme Court is responsible for altering the Bill of Rights in a way that doesn't diminish the document but also makes it relevant today.

2. PART B: Which detail from the text best supports the answer to Part A?
 - A. "...a group known as the Anti-Federalists refused to sign onto the Constitution without assurances protecting their 'natural rights,' rights that they asserted were given to them by God, and which could not be violated by any government." (Paragraph 7)
 - B. "The Third Amendment is less relevant to our modern lives. It says that the government cannot force you to house soldiers unless Congress passes a law in a time of war." (Paragraph 11)
 - C. "At the time of its writing, the Bill of Rights was only intended to protect land-owning white males, but it nevertheless represented the broadest protections for citizens by any established Western government." (Paragraph 14)
 - D. "Can students say anything at school? Once again, the Supreme Court would have to step in to interpret the words of the First Amendment and clarify." (Paragraph 21)

3. Which of the following describes how the author develops his analysis of the Bill of Rights?
 - A. The author compares the original claims of the Bill of Rights with how we interpret the document today.
 - B. The author explores different court cases in which the Bill of Rights needed to be reinterpreted to address modern day conflicts.
 - C. The author emphasizes how outdated many of the amendments in the Constitution are and how the Supreme Court is attempting to modernize them.
 - D. The author provides examples of how the Bill of Rights has protected citizens from having their rights violated by the government.

4. How does the author's discussion of *Bethel School District v. Fraser* contribute to the development of ideas in the text (Paragraphs 22-23)?
 - A. It suggests that the results of the Tinker case didn't actually ensure the protection of students' free speech in school.
 - B. It emphasizes the idea that the Supreme Court not only interprets the Bill of Rights to protect natural rights, but also to determine the extent of them.
 - C. It shows how the Supreme Court's reinterpretations of the Bill of Rights primarily limit rights, rather than protect them.
 - D. It highlights how confusing the Bill of Rights is, and how the Supreme Court is the only group of people qualified to interpret it.

5. What connection does the author draw between changes in our society and the need for the Supreme Court to reinterpret the Bill of Rights?
