

BILL OF RIGHTS - Refers to the first ten amendments to the Constitution (ratified December 15, 1791), which guarantee civil liberties against infringement by Congress and the government. Among the rights therein assured are freedom of speech, press, religion, and association (1st); the right to bear arms (2d); guarantees against unreasonable searches and seizures (4th); grand jury indictment and guarantee of due process (5th); the right to a speedy trial and trial by jury (6th); prohibition of cruel and unusual punishment and excessive bail (8th); and a guarantee that citizens and states retain rights and privileges not expressly limited in the Constitution (9th & 10th).

The amendments originally guarded only against infringement by the federal government. Since then courts have applied them against states as well, through the 14th Amendment. More precisely, until the 14th Amendment was ratified July 9, 1868, there was virtually no call on the Bill of Rights by American citizens. The first *significant* Supreme Court case to cite the Bill of Rights as a potential protection of individual rights was *Twining v. New Jersey* (1908). In the twentieth century successful appeals to the Bill of Rights mushroomed, becoming a major source of litigation, with first amendment cases outstripping all others. While the rest of the Constitution describes what government *can do* and *how* it may do it, the Bill of Rights describe what government *must not do*. Citizens enforce the Bill of Rights through appeals to the courts. In general, therefore, a bill of rights is a fundamental statement of principles governing the relations between citizens and the state, founded in ideas derived from the concept of natural rights, such as that elaborated in the Declaration of Independence.

It is important to remember that the Bill of Rights (originally drafted by James Madison) was added to the Constitution *after* it had been ratified and the government established. Opponents to the Constitution thought the document inadequate without a Bill of Rights, while proponents insisted that the Constitution itself was the main limitation on government. President George Washington, in his first inaugural address, asked the new Congress in 1789 to adopt a Bill of Rights so that all citizens would feel a part of the new nation.¹ The debates in Congress, particularly the House of Representatives, stressed the need to “quiet the mind of the people.”² Twelve amendments were sent to the states, one at first enlarging and then limiting the number of representative in Congress, and a second, limiting the salaries of members of Congress. Only ten were ratified by the states. Two states, North Carolina and Rhode Island, had not joined the original government because they desired a Bill of Rights. As soon as the amendments were sent out these states proceeded to ratify and join the union.

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¹ The “First Inaugural” is reprinted with Washington’s *Papers* in numerous editions and is readily available in *George Washington: A Collection*, ed. by W. B. Allen (Indianapolis: Liberty Press, 1988), p. 462.

² James Madison, Debates in the House of Representatives, June 8, 1789. Besides the *Annals* of the Congress, this and other speeches are reprinted in *Creating the Bill of Rights*, ed. by Helen E. Veit, Kenneth R. Bowling, and Charlene Bangs Bickford (Baltimore: Johns Hopkins, 1991). See pp. 63 & 77.