

Questions for Thought and Action

First Amendment

1. What are some of the reasons that the Founding Fathers would want the First Amendment rights placed into the Constitution?
2. Does the First Amendment protect a right to speak out against government policies?
3. Does the First Amendment protect a right to speak in favor of government policies on college campuses?
4. Under the spirit of the First Amendment, may a state college or university punish or expel a student who speaks out on matters of social or political policies?
5. Do Muslims and Buddhists have the right to preach and practice their religion in America?
6. May the government prohibit Jews and Christians from talking about their religious beliefs in the workplace?
7. Is a student exercising her First Amendment rights to freedom of speech and free exercise of religion when she starts a graduation speech with thanks to the Creator?
8. Should federal agents be allowed to open investigations of citizens who have enjoyed the fruits of the rights of freedom of speech and press by checking out and reading certain books from a library?
9. Would a federal law against publishing or reading of certain books be a violation of the First Amendment right to free speech and press?
10. Should users of radio and television broadcasting have the same right to freedom of the press as do writers and publishers of newspapers?

Second Amendment

1. What are some of the reasons that the Founding Fathers might have wanted to guarantee that “the right of the people to keep and bear arms shall not be infringed”?
2. When the Second Amendment refers to “the right of the people to keep and bear arms,” is that Amendment referring to a “right of the people” or to a power of the state governments?
3. If you were writing a constitution and wanted to give a power to the state governments, would you use the phrase “right of the people,” or would use a phrase such as “power of the state government”?

4. What kinds of weapons does the term “arms” refer to in the Second Amendment?
5. Does the Second Amendment give “the people” a right that they would not have otherwise, or does the Second Amendment legally protect a right that “the people” always have as a natural right?
6. When the federal government enacts a law that bans certain types of firearms, is the federal government “infringing” upon the right of the people to keep and bear arms?
7. To whom does the term “the militia” refer in the Second Amendment?
8. If you were writing a constitution, would you refer to a “right of the people” if you were talking about rules having to do with state or federal militias?
9. Would it “infringe” the Second Amendment to prosecute and imprison a citizen for keeping or bearing a firearm when there is no evidence that the citizen intended to commit any violent crime with that firearm?

Third Amendment

1. What are some of the reasons that the Founding Fathers would place into the Constitution a restriction on quartering troops in private homes?
2. When the British government quartered troops in private homes and businesses of the American colonists, might the troops have acted as spies to monitor what the colonists were reading, saying, believing and doing?
3. Would it be acceptable for the military to station troops in private homes to fight “the war on terror”?
4. Would it be acceptable for a civilian agency to place agents in private homes to fight “the war on drugs”?

Fourth Amendment

1. What are some of the reasons that the Founding Fathers placed the Fourth Amendment into the Constitution?
2. From the text of the Fourth Amendment, what is required to get an arrest or search warrant?
3. When the Fourth Amendment refers to “the right of the people,” is it actually referring to a power of a state or federal government?

4. Do you know what would be considered an “unreasonable search or seizure” under the Fourth Amendment?
5. Under the Fourth Amendment, should it be “reasonable” for federal agents to break into a private home to search computers without a warrant?
6. Under the Fourth Amendment, should federal agents be permitted to obtain citizens’ library borrowing records without a warrant?
7. Does the Fourth Amendment permit a peace officer to arrest a suspect when the officer has seen the suspect commit a crime?
8. Does the Fourth Amendment permit a peace officer to arrest a person because the officer believes the person might commit a crime in the future?
9. Is it “reasonable” under the Fourth Amendment to subject every passenger on commercial airlines to personal and luggage searches, without any evidence that any passenger is a criminal or poses a danger to anyone?
10. Is it “reasonable” under the Fourth Amendment to detain a traveler and confiscate his or her money solely because the traveler is carrying a large amount of cash?

Fifth Amendment

1. What are some of the reasons that the Founding Fathers placed the Fifth Amendment into the Constitution?
2. What is a “grand jury”? What does a grand jury do?
3. How does the grand jury indictment provision in the Fifth Amendment protect citizens?
4. For what reasons might the military services not be required under the Fifth Amendment to obtain grand jury indictments for crimes committed by military members?
5. Which part of the Fifth Amendment might be called the “double jeopardy” clause? What is the purpose of the right protected by that clause?
6. If the police used torture to force a suspect to confess to a crime, would the police have violated the suspect’s Fifth Amendment right against self-incrimination?
7. What does it mean to deprive a person of life, liberty or property without due process of law?

8. Looking at the final clause of the Fifth Amendment: do you think that the Founding Fathers intended to allow the government to forcibly take the property of one person and give it to another person, just so the new owner could develop it for his private commercial purposes?

Sixth Amendment

1. What are some of the reasons that the Founding Fathers placed the Sixth Amendment into the Constitution?
2. What are some factors that help make sure a jury is impartial?
3. What purpose does it serve for the Sixth Amendment to demand that the government inform the accused person of the charges against him or her?
4. Under the Sixth Amendment, can the government detain an American citizen in prison indefinitely without a trial?
5. Under the Sixth Amendment, should the government be able to detain a non-citizen in prison indefinitely without a trial?
6. Why might it be important to allow an accused person to know who was providing information and accusing him or her of the crime, and to confront those people in the courtroom?
7. Why might the right to counsel be so important that the Founding Fathers placed the right into the Sixth Amendment?

Seventh Amendment

1. What are some of the reasons that the Founding Fathers placed the Seventh Amendment into the Constitution?
2. Why might the Founding Fathers have thought that having a jury in a civil case was so important?
3. What might happen if, after a civil trial is completed and the jury has returned its verdict, other courts were allowed to re-hear and re-decide the whole case again?
4. The Supreme Court has held that citizens have no right to a jury trial when a federal agency, such as the Internal Revenue Service, files a civil case against a citizen. Considering the purposes of both the Sixth Amendment and the Seventh Amendment, should citizens have a jury trial in serious cases brought by federal agencies?

Eighth Amendment

1. What are some of the reasons that the Founding Fathers placed the Eighth Amendment into the Constitution?
2. What is the purpose of “bail”?
3. How should a judge decide how much bail money the suspect has to post before allowing the suspect to go free before trial?
4. What might be considered an “excessive fine”?
5. What should be considered a “cruel and unusual punishment”?
6. Should it be allowed, under the Eighth Amendment, to imprison a non-violent person for five years or more because that person ingested a certain substance but otherwise endangered no one?
7. Should the federal government be allowed to impose a \$25,000 fine upon a person who fails to file paperwork, when that person has harmed or endangered no one?

Ninth Amendment

1. What are some of the reasons that the Founding Fathers placed the Ninth Amendment into the Constitution?
2. What does the Ninth Amendment mean?
3. Does the term “the people” in the Ninth Amendment have a different meaning than the same term as used in the First Amendment, Second Amendment or Fourth Amendment?
4. Does the term “the people” in the Ninth Amendment mean the state governments or the state militias?
5. What does the term “enumeration” mean in the Ninth Amendment? What are “enumerated rights”?

Tenth Amendment

1. What are some of the reasons that the Founding Fathers placed the Tenth Amendment into the Constitution?
2. Does the term “the people” in the Ninth Amendment have a different meaning than the same term as used in the First, Second, Fourth or Ninth Amendment?
3. Why does the Tenth Amendment refer to “powers,” when the other Amendments refer to “rights”? (Hint: Read the first paragraphs of the Declaration of Independence).
4. Considering the meaning and purpose of the Tenth Amendment, if the Constitution does not give the federal government the power to regulate or control education of children, then should there be a federal Department of Education?
5. Considering the meaning and purpose of the Tenth Amendment, if the Constitution does not give the federal government the power to regulate or control private housing or the development of cities in the various States, then should there be a federal Department of Housing and Urban Development?
6. Considering the meaning and purpose of the Tenth Amendment, if the Constitution does not give the federal government the power to regulate or control doctors, hospitals and private individuals’ health care, then should there be a federal Department of Health and Human Services?
7. Considering the Tenth Amendment, the Ninth Amendment, and the Second Amendment, does the federal government have any power under the Constitution to regulate, control or prohibit firearms ownership and possession?
8. Considering the Tenth Amendment, the Ninth Amendment, and the First Amendment rights to free speech and press, does the federal government have any power under the Constitution to regulate, control and license radio and television broadcasting, cable casting, or satellite broadcasting?

GENERAL QUESTIONS

1. Look at the wording of the First, Second, Fourth, Ninth and Tenth Amendments. Do these Amendments create rights and bestow those rights on the people? Or do these Amendments recognize that the people have these rights already, and thus operate to protect and preserve these rights?

2. Look at the Constitution itself, Article V, where it describes the methods for proposing and enacting amendments. Should it be acceptable for Congress, the President or the courts to modify or ignore any of the provisions of the Bill of Rights without the Bill of Rights being formally amended?