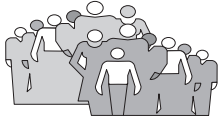


Citizenship: Rights, Duties, and the Voting Public

What Is a Citizen?



A citizen is a native or naturalized person who owes allegiance to and receives protection from a government. In its simplest form, citizenship can be defined as participation in or membership in a community.

Ancient and Modern Citizenship



Citizenship in the ancient world was granted to limited groups of people. The Greek city-state, for instance, denied women and slaves the rights of full political participation. In the later years of the Roman Empire, restrictions on citizenship loosened to include people of newly conquered lands. In both civilizations, citizenship conferred great responsibilities as well as privileges.

In democratic countries, modern citizenship crosses all social classes; therefore all persons as citizens are equal before the law. No person or group is legally privileged. In many modern nations, citizenship confers great privileges and rights as well as responsibilities.



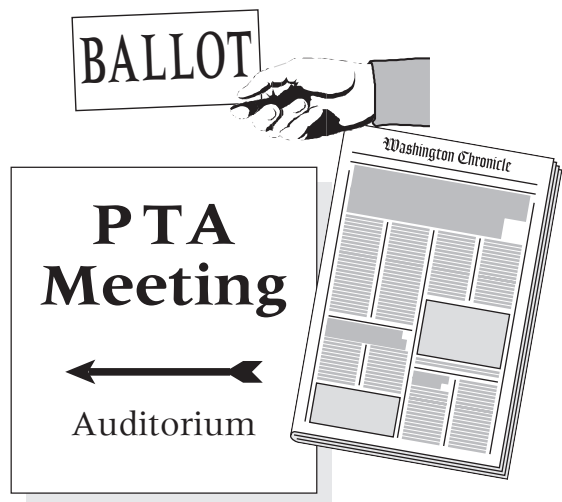
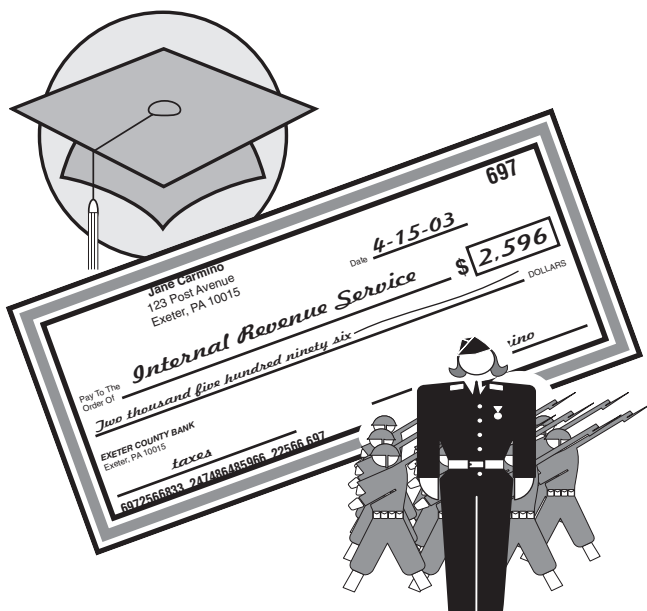
Duties and Responsibilities of Citizenship

By Law, All U.S. Citizens Must

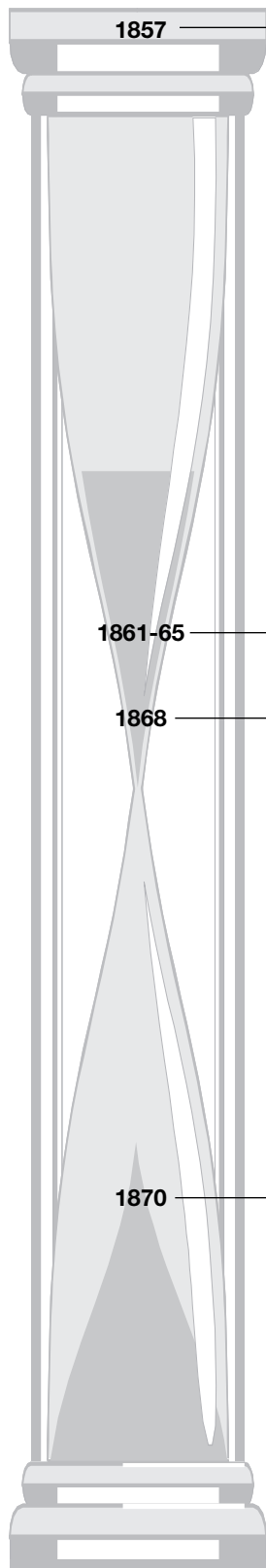
- obey local, state, and federal laws
- pay taxes
- serve on a jury, if called

In Addition, All U.S. Citizens Should

- be informed about government and take part in it
- vote
- respect the property and rights of others
- respect the different opinions and lifestyles of others
- take an active part in the community



U.S. Citizenship: A Landmark Case and Two Amendments



1857 — The Dred Scott Case

Dred Scott was an enslaved African American living in Missouri, a state where slavery was legal. Scott had lived with his owner in both the Wisconsin Territory and Illinois where slavery was outlawed. After the death of his owner, Scott sued his owner's widow for freedom on the basis of his having lived in territories where he would have been free. A state court ruled in his favor, but the Missouri Supreme Court ruled against him, prompting his attorneys to appeal his case to the U.S. Supreme Court.

The Supreme Court ruled, 7-2, against Scott. Chief Justice Roger Taney wrote the opinion, reasoning that under the U.S. Constitution, blacks were not considered citizens. In addition, the Court ruled that Scott was still a slave because he had never been free. The opinion also found that Congress had exceeded its authority by freeing the slaves in the territories because no such power could be inferred from the Constitution.

The Dred Scott decision unleashed condemnation from abolitionists and praise from slave owners. Both sides became more entrenched in their positions. The battle lines of the Civil War were being drawn.

1861-65



Civil War

1868

The 14th Amendment

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States

This amendment, added in 1868, extended all the rights of citizenship to blacks and firmly placed citizenship under national control.

1870

The 15th Amendment

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude

This amendment, added in 1870, explicitly gave blacks the right to vote and further reinforced the voting rights of all male citizens, regardless of race.

Gaining Citizenship

By Birth

The 14th Amendment states that “*All persons born ...in the United States...*” are citizens. The United States includes:

the 50 states	Puerto Rico	the Virgin Islands
the District of Columbia	Guam	the Northern Mariana Islands

Under certain circumstances, a child born abroad can be born an American citizen. The child must be born to at least one parent who is a U.S. citizen and who has lived for at least 10 years in the U.S., 5 of which had to be after age 14.

By Naturalization

Naturalization is the legal process by which a person becomes a citizen of another country at some time after his/her birth in another nation.

Individual Naturalization

Each year approximately 500,000 people become naturalized citizens. Any immigrant who comes to the U.S. legally may become naturalized in most cases, if he or she:

1. has entered the U.S. legally, is at least 18 years old, has lived in the U.S. for at least 5 years, and in one state for at least 3 months
2. files a petition with a federal district court or a state court of record
3. is literate in English unless the person is over age 50 and has lived in the U.S. for 20 years
4. is “of good moral character,” “attached to the principles of the Constitution,” and “well disposed to the good order and happiness of the United States”
5. has “a knowledge of the fundamentals of the history, and the principles and form of government, of the United States”
6. takes an oath or affirmation renouncing allegiance to any foreign power and promises to “support and defend the Constitution and laws of the United States against all enemies, foreign and domestic”

Collective Naturalization

This happens when an entire group of people is naturalized at once, most often when the U.S. acquires new territory. Two examples:

- In 1803, everyone living in the Louisiana Territory was collectively naturalized.
- In 1977, the 16,000 native-born people of the Northern Mariana Islands were naturalized.

Losing Citizenship

Expatriation: The legal right of every citizen whether natural-born or naturalized, to renounce his or her citizenship.

Denaturalization: Loss of citizenship by court order because a naturalized citizen acquired his or her citizenship by fraud or deception.

Punishment for a Crime: A person may lose citizenship as punishment for federal crimes involving extreme disloyalty, such as treason, rebellion, or an attempt to overthrow the government.

Legal and Illegal Aliens

There Are Four Kinds of Legal Aliens

Resident aliens

People from foreign nations who have established permanent residence in the United States.

He or she may stay in the U.S. as long as he or she wishes.

A resident alien is not required to become an American citizen; however, most do.

Non-resident aliens

People from foreign nations who plan to stay in the U.S. for a short time. Non-resident aliens are not considered immigrants.

Refugees

People considered refugees from their homeland because of war, poverty, or political repression are permitted to come to the U.S.

In recent years, the U.S. has accepted refugees from Central America, Eastern Europe, and Southeast Asia.

The 1980 Refugee Act allowed a maximum of 50,000 refugees per year, but this number has usually been exceeded.

Enemy aliens

Citizens of a nation with which the U.S. is at war are relegated to a separate class of aliens.

Under law, these aliens are entitled to full protection of life and property; however, wartime arouses discriminatory fervor and sometimes enemy aliens have been unfairly treated. During World War II, over 100,000 Japanese people were held in internment camps in the U.S. Only one-third of them were enemy aliens, the rest were U.S. citizens.

Rights and Restrictions of Legal Aliens

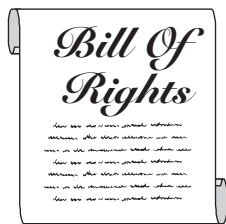
guaranteed the same protections as citizens under the Bill of Rights

may own homes, use public facilities, have jobs

must pay taxes, obey the law, and be loyal to the government

cannot vote, are usually exempt from jury duty and military service

cannot travel freely—must notify authorities of a change of residence



Undocumented or Illegal Aliens



Persons who come to the U.S. without a legal permit, such as a passport, visa, or permit of entry.

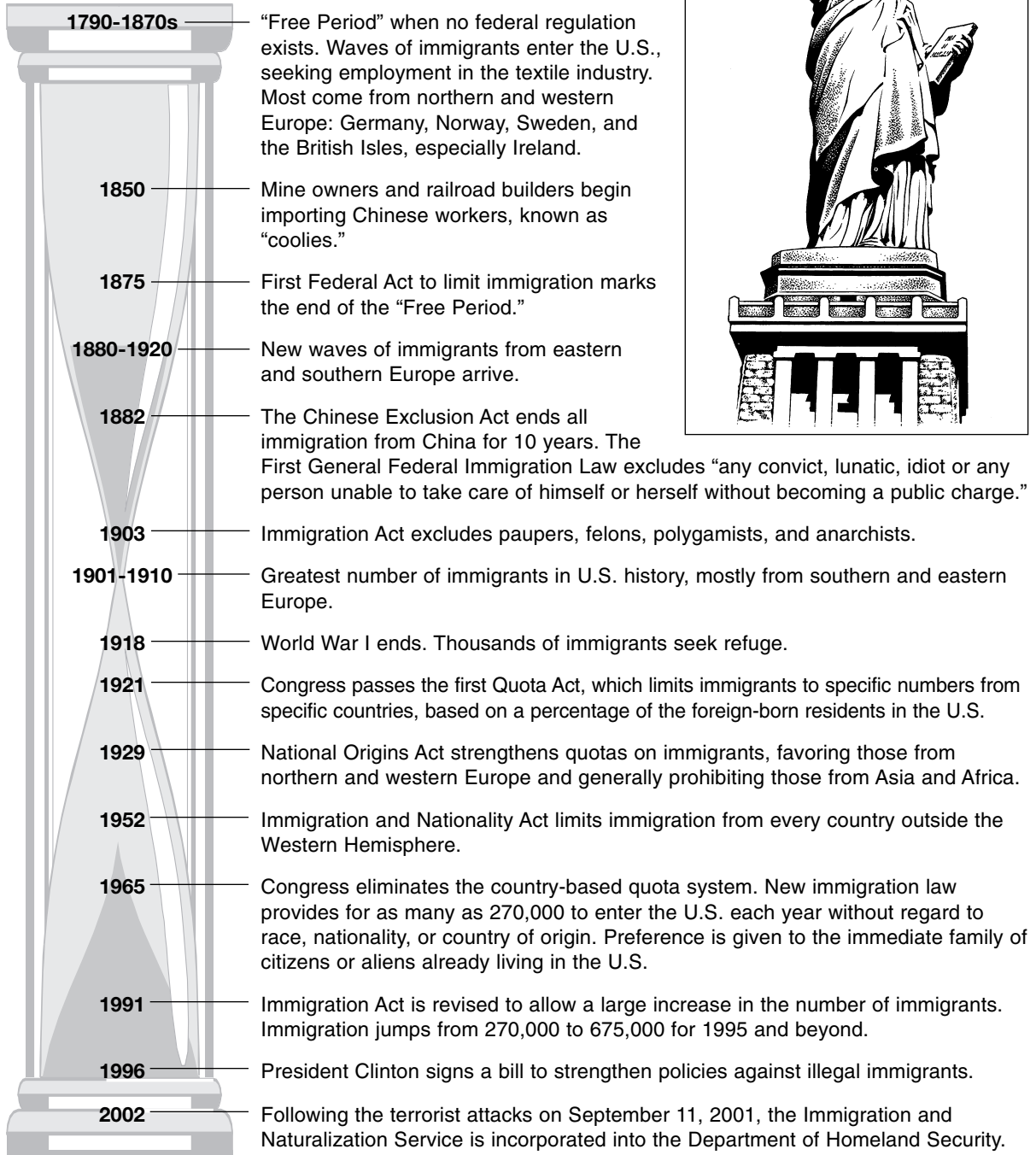
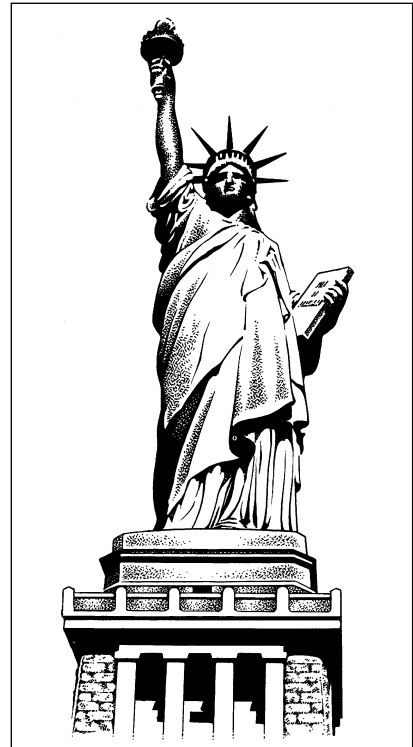
Estimates of illegal aliens in the U.S. range from 4-12 million. Most have entered the U.S. by crossing the Mexican or Canadian borders; some become illegal when they remain after their legal permits expire.

In response to the threat to national security following the September 11, 2001, attacks, the Immigration and Naturalization Service was incorporated into the Department of Homeland Security. Reform measures were taken to tighten immigration standards and crack down on those who are in the country illegally.

History of Immigration and Immigration Policy

*Give me your tired, your poor,
Your huddled masses
yearning to breathe free,
The wretched refuse of your
teeming shore. Send these, the homeless,
tempest-tost to me. I lift my lamp
beside the golden door!*

—Emma Lazarus, 1883
(inscribed on the Statue of Liberty)



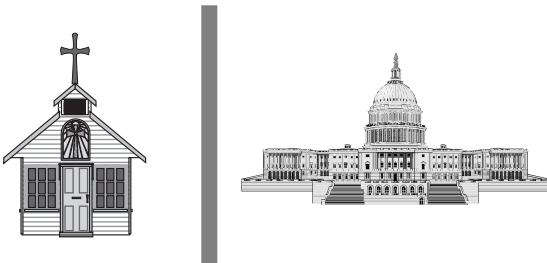
First Amendment Freedoms: Religion

First Amendment

Congress shall make **no law respecting**
→ **an establishment of religion,**
or **prohibiting the free exercise thereof;** ←
or abridging the freedom of speech or of
the press; or the right of the people
peaceably to assemble, and to petition the
government for a redress of grievances.

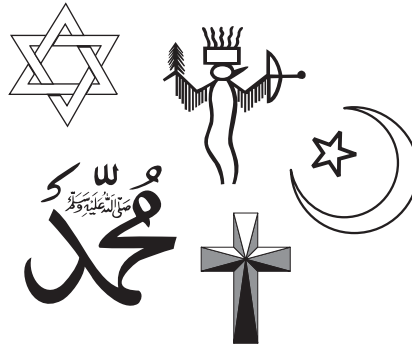
Separation of Church and State

Thomas Jefferson describes the Establishment Clause, the first part of the First Amendment, as setting up “a wall of separation between church and state.” This separation has been honored throughout history; however, contradictions concerning its implementation do exist. For instance, most sessions of state legislatures and all sessions of Congress open with a prayer.

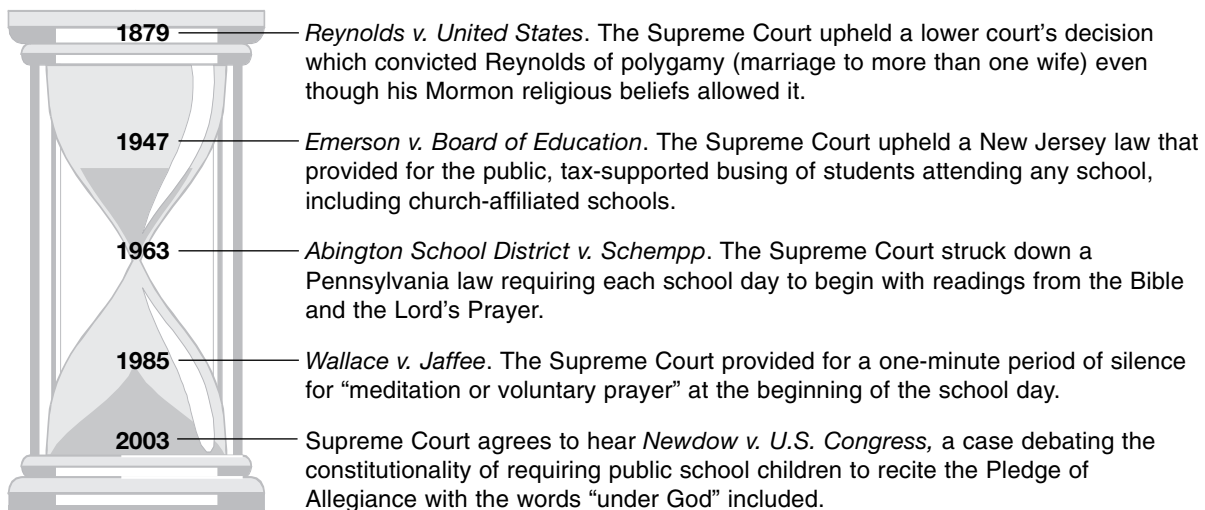


Religious Freedom

The Free Exercise Clause guarantees every person the right to believe whatever he or she wishes regarding religion. However, no person has the right to act as he or she chooses threatens the public's safety or welfare or if it violates the law.



Landmark Cases of the Supreme Court



First Amendment Freedoms: Speech and the Press



[Those who won our independence] believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that without free speech and assembly, discussion would be futile; that with them, discussion affords ordinarily adequate protection against the dissemination of noxious doctrine; that the greatest menace to freedom is an inert people; that public discussion is a political duty; and that this should be a fundamental principle of the American government.

—Justice Louis Brandeis

Freedom of
Speech



First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or **abridging the freedom of speech** or of **the press**; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Freedom of
Press



Protection of Speech

The First Amendment protects minority views; the opinions of the majority need little protection.

Not all forms of expression are protected by the Constitution. For instance, no person has the right to slander or libel another person and obscene words and materials can be prohibited even though the definition of obscenity is vague.

Symbolic speech is another form of expression. For instance, picketing is a way of informing the public of a controversy and how one feels about it. If disruptive, some picketing can be prohibited.

Commercial speech—speech for business purposes—is also protected under the 1st and 14th Amendments. However, the government can and does prohibit false and misleading advertising.

Protection and Regulation of the Press

Confidentiality is often an issue. News reporters and organizations may insist that they have the right to refuse to testify or the right to protect their sources. Federal and state courts have generally rejected these arguments, while Congress has made some exceptions. Many states have enacted “shield” laws to protect the media.

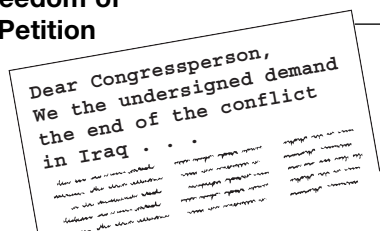
In radio and television broadcasting, Congress has passed extensive regulatory laws. The Supreme Court has upheld these regulations based upon Congress’s constitutional power to regulate interstate commerce.

First Amendment Freedoms: Assembly and Petition

Freedom of Assembly



Freedom of Petition



First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or **the right of the people peaceably to assemble, and to petition the government for a redress of grievances.**



Guarantees of the Freedom of Assembly and Petition

Assembly: The Constitution protects people's right to gather together to express their views on public matters and their right to organize in political

parties, pressure groups, and other organizations to influence public policy.

Petition: The Constitution protects people's right to bring their views to public officials by such means as letters, advertisements, petitions, lobbying, parades, and other demonstrations.

Association: The guarantees of freedom of assembly and petition also include a guarantee of association. The Supreme Court has ruled, "it is beyond doubt that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect" of the Constitution's guarantees of free expression.

Reasonable Regulation

Government has the right to enforce reasonable laws pertaining to the time, place, and manner of assemblies. In *Cox v. Louisiana* (1965) the Supreme Court upheld a law prohibiting a parade that was intended to influence the proceedings outside a courthouse.

The government cannot regulate an assembly on the basis of content or what might be said there. In *Forsyth County v. Nationalist Movement* (1992), the Supreme Court ruled against a county that had imposed a fee of up to \$1,000 on public demonstrations. A white supremacist group had contested the fee.



Restrictions on Assembly and Petition

"Peaceable" assembly: The Constitution does not give people the right to incite violence, block roads, close schools or otherwise endanger life, property, or the public order.

Exclusion of private property: The rights of assembly and petition exclude use of private property. Privately owned shopping malls, for example, are not public areas.

Exclusion for illegal ends: People do not have the right to assemble to pursue illegal ends.

Fifth Amendment Rights: Grand Jury, Double Jeopardy, and Self-Incrimination

Grand Jury

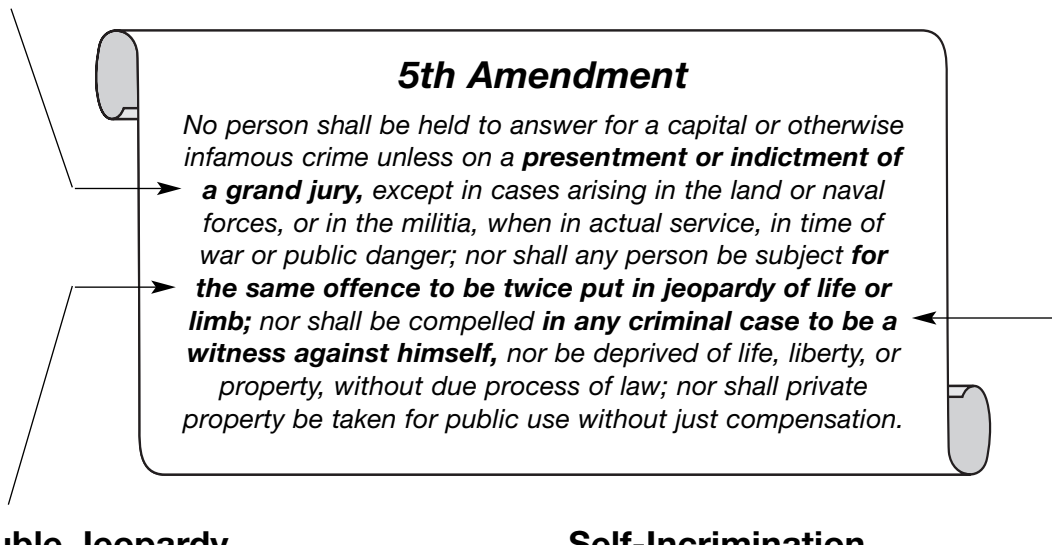
At the federal level, any person who is suspected of a crime must be formally charged by a grand jury, which is composed of 16-23 persons. The sessions of the grand jury are secret. Only the prosecution is present in these sessions. Twelve jurors must agree to return an indictment or presentment.

Indictment: a formal complaint laid before a grand jury by a prosecutor, which charges the accused with one or more crimes.

Presentment: a form of accusation brought by the grand jury on its own motion, instead of through the prosecutor.

If the grand jury discovers that there is enough evidence for a trial, it returns a "true bill of indictment." If it does not, the charges are dropped.

At the state level, an "information" (sworn affidavit by a prosecutor saying enough evidence exists to prosecute someone), often replaces a charge by a grand jury, which is costly and time-consuming.



Double Jeopardy

Once a person has been tried for a crime, that person cannot be put in "double jeopardy," that is, tried again for that same crime.

HOWEVER

A person can commit a crime against both the federal government and a state government and be tried at both levels for the same act. Also, a person can be tried for the same act in both a criminal and civil court.

A single act can involve several different crimes. For example, a person breaks into a drugstore, steals drugs, and sells them. He or she would be charged with illegal entry, theft, and the illegal sale of drugs.

If a verdict is unreachable, resulting in a "hung jury," it is as if no trial occurred. The accused may be tried again.

Self-Incrimination

A person cannot be forced to testify against himself. He may "take the Fifth," or refuse to testify on the grounds that he may incriminate himself. Force, whether physical or psychological, cannot be used to coerce an individual into confessing. In *Miranda v. Arizona* (1966), the Supreme Court ruled that suspects under arrest must be informed of their right to remain silent so as not to incriminate themselves.

HOWEVER

The privilege against self-incrimination cannot be used to protect someone else.

A person can still be forced to be fingerprinted, photographed, stand in a police lineup, etc.

Fifth Amendment Rights: Due Process of Law and Eminent Domain

Due Process of Law

Due process of law, first established in English common law, means that governments must act fairly and follow established rules. The 5th Amendment ensures that each person is entitled to due process from the federal government. The 14th Amendment extends this to the states.

The Supreme Court has recognized that fair procedures are of little value if the laws themselves are unfair. Therefore the court has established both “procedural” and “substantive” due process.

Procedural Due Process

Procedural due process pertains to methods used to carry out laws. States may exercise “police power” to protect and promote the public safety and welfare. In carrying out the duties, however, states must not violate an individual’s right to substantive due process. In many cases, the public interest overrides a person’s right to due process. In *Schmerher v. California* (1966), the Supreme Court found no fault with a police officer’s request to have blood drawn from a drunk-driving suspect.

Substantive Due Process

Substantive due process pertains to the fairness of laws themselves. *Pierce v. Society of Sisters* (1925) is a good example of this. A group of Roman Catholic nuns challenged the “due process” constitutionality of an Oregon law that said that all persons between the ages of 8 and 16 not completing 8th grade must attend public schools. The Supreme Court ruled in favor of the nuns, saying that the law itself was unfair, not the procedure the State of Oregon used to implement the law.

5th Amendment

*No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, **nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.***

Eminent Domain

Under this section of the 5th Amendment, the government has the right to take an individual’s property if it is intended for the public good, providing that the government pays a fair price for it.

Example: The land and houses in an entire village were claimed in the early 1900s to build a much-needed reservoir for the state of Rhode Island. Even grave sites had to be removed.

Sixth Amendment Rights: Trial Procedures

6th Amendment

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury ... and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

Speedy and Public Trial

Speedy trials

The guarantee of a “speedy” trial ensures that an accused person is tried within a reasonable time without any unnecessary delays. The Supreme Court has realized that no two cases are alike and that “reasonable” times may vary.

In 1974, Congress passed the Speedy Trial Act, which stated that the time between a person’s arrest and trial could not be more than 100 days, unless extensive mental tests were needed or a key witness was ill.

Public trials

Trials must be public. However, a judge can limit the number and types of spectators in a courtroom and disruptive spectators may be barred. A judge may order a courtroom to be cleared if the testimony is embarrassing to a witness.

The media have often clashed with the courts over their right to broadcast trial proceedings. The Supreme Court has declared that the media have only the same right as the public to be present in the courtroom and that the “right to a public trial belongs to the defendant, not the media.”

Trial by Jury

The accused is entitled to a trial by jury. A defendant may waive the right to a jury, if the judge believes the defendant understands his/her rights regarding the right to a jury.

A trial jury is called a “petit” jury (as opposed to a grand jury). It is composed of 12 members on the federal level and in most states. Some states have reduced the number to 6.

Juries in criminal cases can only convict with a unanimous decision on the federal level and in most states.

The jury must be composed of members from a cross-section of the community. A person cannot be excluded from a jury because of race, sex, religion, ethnic origin, or color.

Adequate Defense

Every accused person has the right to the best possible defense.

The accused has the right to face the witnesses against him or her in court and to question them.

Accused persons should be able to obtain witnesses on their behalf to speak in court.

Eighth Amendment Rights: Bail and Punishment

Excessive Bail

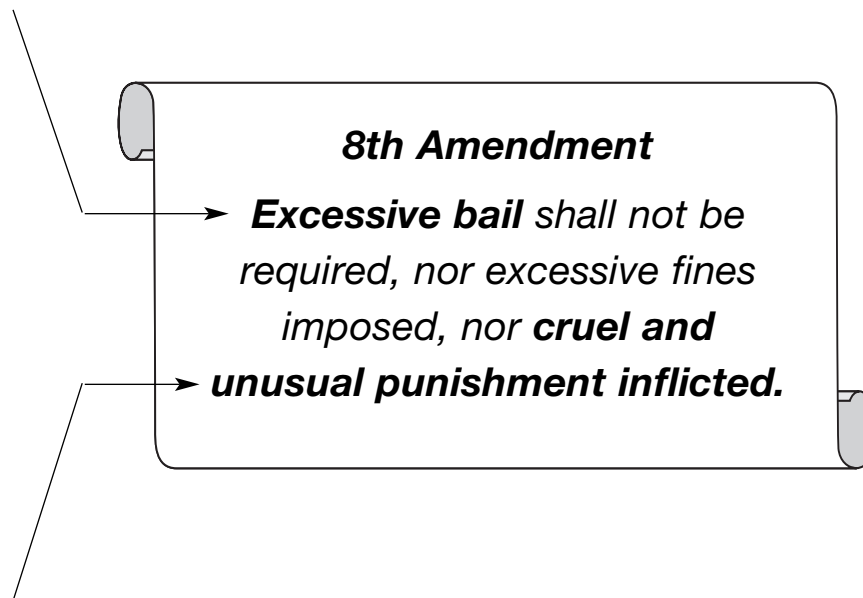
Bail is a sum of money that the accused may be asked to deposit with the court as an assurance that he/she will appear in court on the day specified.

The bail should have a reasonable relationship to the seriousness of the crime. In *Stack v. Boyle* (1951), the Supreme Court established that “bail set at a figure higher than the amount reasonably calculated” to ensure a defendant’s appearance in court is “excessive.”

Bail is justified on the grounds that an individual can better prepare a defense if not incarcerated and in the belief that a person should not be jailed until found guilty.

The Constitution does not guarantee all accused the right to bail, only that it not be “excessive.”

States also outline restrictions on bail and punishment in their constitutions.



Cruel and Unusual Punishment

The prohibition against cruel and unusual punishment is intended to protect individuals against torture and other excessive punishment.

The Supreme Court has heard only a handful of cases on the subject and, in most cases, has rejected claims of cruel and unusual punishment. For example, in *Louisiana v. Resweher* (1947), the Court ruled that it was not cruel and unusual to subject a convicted murderer to a second electrocution after the chair had malfunctioned on the first attempt.

The Court has acted in favor of convicted prisoners in some cases. One such case is *Estelle v. Gamble* (1976), in which the Court ruled that a Texas prison’s denial of medical care to a prisoner amounted to cruel and unusual punishment.

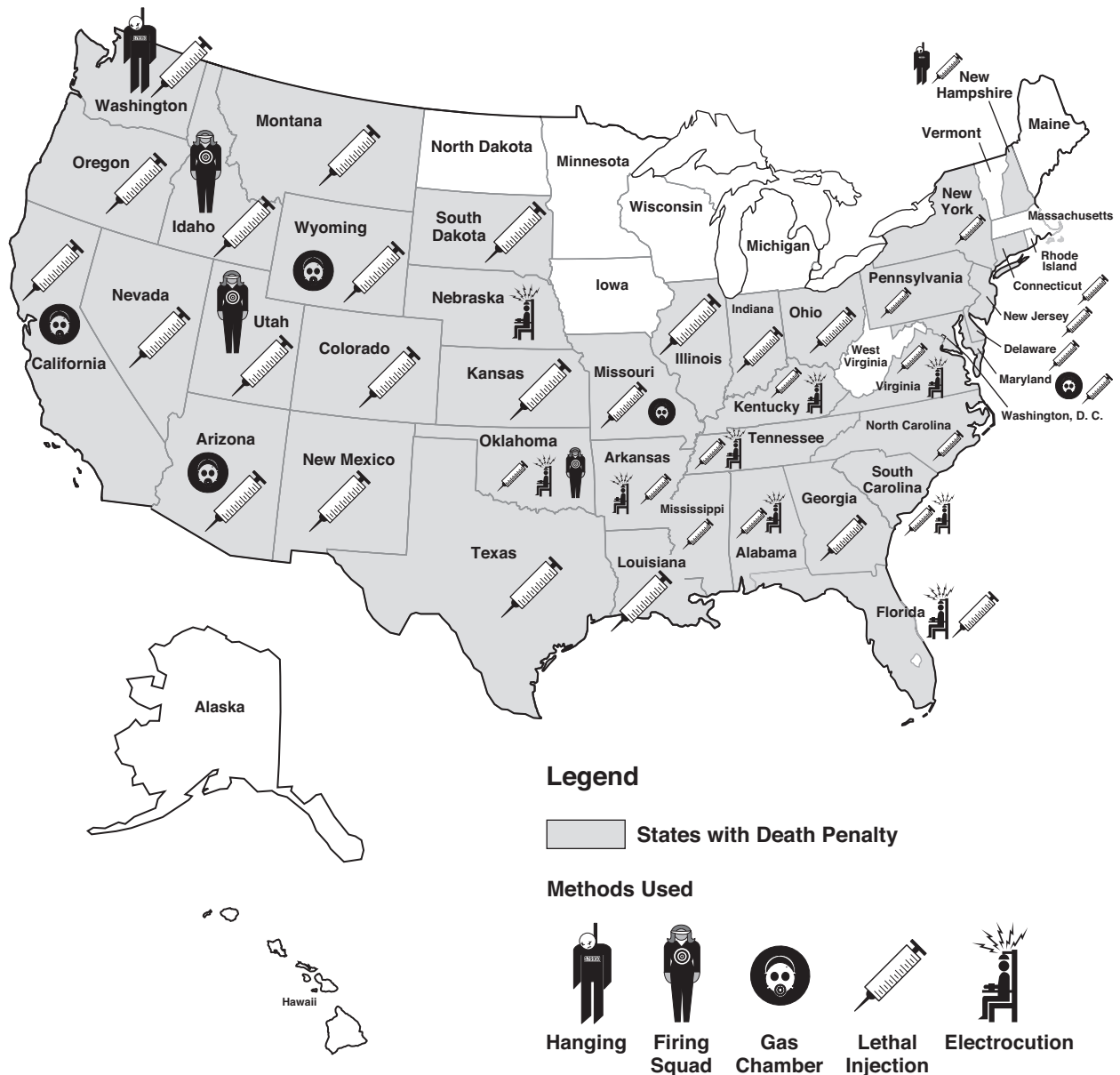
The death penalty has stirred debate over whether it constitutes cruel and unusual punishment. In *Atkins v. Virginia* (2002), the Supreme Court ruled that the execution of prisoners deemed to be mentally retarded violates the prohibition against cruel and unusual punishment.

Eighth Amendment Rights: Question of the Death Penalty

Many who oppose the death penalty do so on the basis of the ban on cruel and unusual punishment found in the 8th Amendment (see previous page). They maintain that killing someone, no matter how serious the crime, is cruel.

The Supreme Court has been reluctant to determine whether the death penalty is “cruel and unusual.” In *Gregg v. Georgia* (1976), it ruled that “punishment of death does not invariably violate the Constitution.” Consequently, it left the decision up to individual states.

As of 2003, capital punishment was legal in 38 states.



Fourteenth Amendment Rights: Equal Protection Under the Law

Equal Protection

The Equal Protection Clause of the 14th Amendment was originally intended to help newly freed slaves. However, it acquired a much broader meaning over time; it now forbids states to draw any undue distinctions between classes of people.

States do have the power to draw distinctions between individuals and groups, but the distinctions must be reasonable. For instance, a state can prohibit marriage to persons under a certain age, but it cannot allow alimony for women but not for men.

14th Amendment

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Two Supreme Court Tests

The Supreme Court has rejected equal protection challenges against state and local governments in more cases than not. Two kinds of standards can be applied to test whether a law violates the equal protection clause.

STANDARD USED	WHEN APPLIED	STRINGENCY OF STANDARD	EXAMPLES
<p>The “Rational Basis” Test</p> <p>Less stringent</p>	<p>In cases concerning rights not considered fundamental</p>	<p>States must show that the “classification in question bears a reasonable relationship to the achievement of some proper governmental purpose.”</p>	<p>In <i>Michael M. v. Supreme Court</i> (1981), the Court ruled in favor of a California law that stated that a man who has sex with a girl who is under 18 years old and who is not his wife can be prosecuted for statutory rape, but the girl cannot be charged with the crime, even if she is a willing partner. Using the rational basis test, the Court found that the law had a reasonable relationship to the achievement of a proper public end: preventing teenage pregnancies.</p>
<p>The “Strict Scrutiny” Test</p> <p>A tougher system of analysis</p>	<p>For equal protection cases that concern fundamental rights, such as the right to vote, the right to travel freely between states, or any First Amendment rights. Cases based on sex, race, or national origin might also undergo this more rigorous test.</p>	<p>States must show that some “compelling government interest” justifies the distinctions it has drawn between classes of people.</p>	<p>In 1979, the Supreme Court ruled in <i>Orr v. Orr</i> using the strict scrutiny test. It said that a state could not award alimony based solely on a person’s sex: a compelling government interest did not exist to justify such a distinct treatment of the sexes.</p>