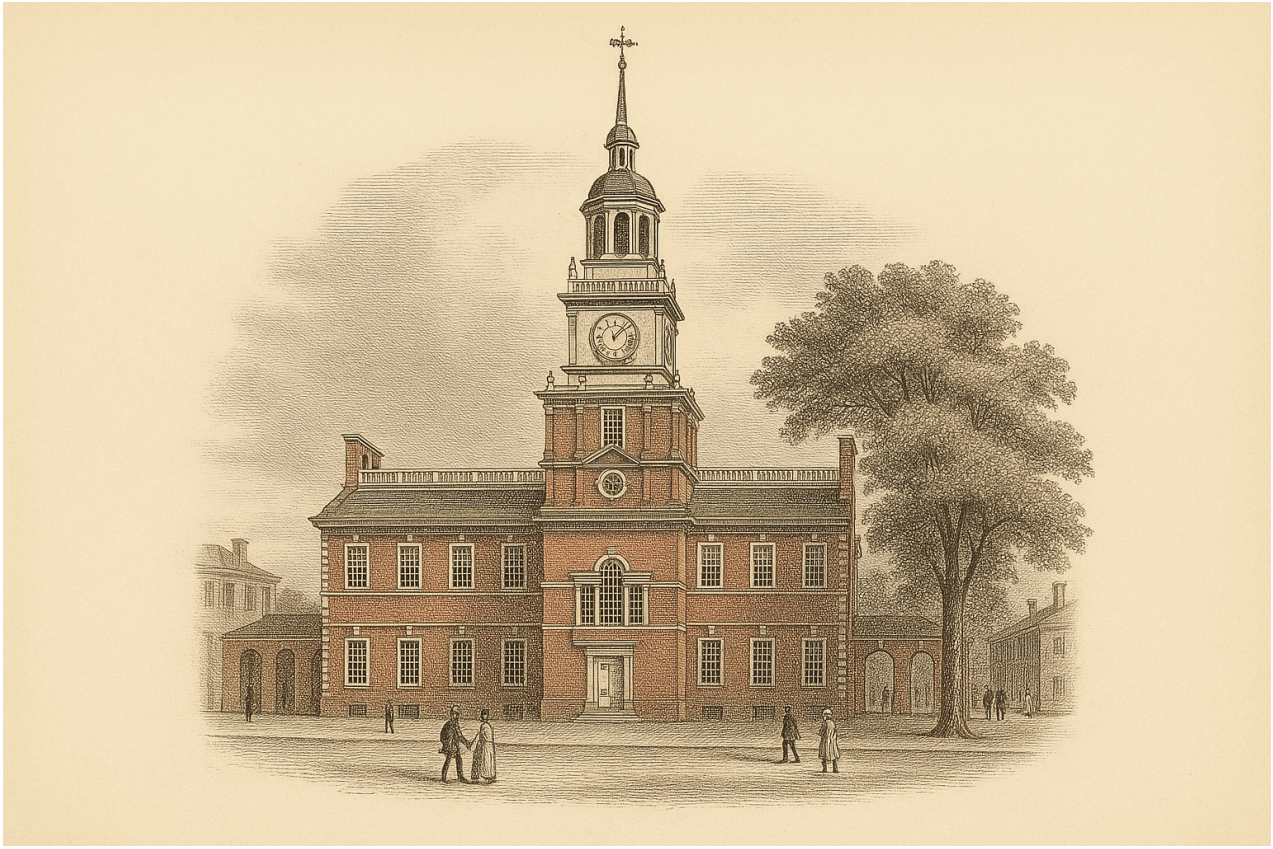
CONSTITUTION DAY, SEPTEMBER 17

The Bill of Rights in Ten Pages

High School



Ten pages. One amendment each. Every one of them exists because something happened to somebody, and this book starts there instead of with the definition.

Next Chapter Homeschool · Free to print, copy, and hand out. Made for one child at a kitchen table or twenty in a co-op.

Name _____ Date _____

THE BILL OF RIGHTS IN TEN PAGES · AMENDMENT 1

The First Amendment

Amendment I. *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.*

FIVE RIGHTS THAT FAIL TOGETHER

Read as a list, the First Amendment protects five things. Read as an argument, it protects one process: a citizen forming a belief, expressing it, publishing it, organizing around it, and demanding redress. Remove any single link and the chain stops carrying weight.

THE CHAIN, LINK BY LINK

- A citizen forms a belief (religion)
- expresses it (speech)
- publishes it (press)
- organizes around it (assembly)
- and demands redress (petition)
- Remove any one link and the chain stops carrying weight

PRIMARY SOURCE · Virginia Declaration of Rights, 1776, section 12

That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

BUILD BOTH SIDES AT FULL STRENGTH BEFORE YOU DECIDE.

THE FIVE ARE ONE MECHANISM: ARGUE THEY ARE INSEPARABLE	THE FIVE ARE SEPARABLE: ARGUE EACH CAN STAND ALONE

YOUR POSITION, AND THE EVIDENCE UNDER IT

Pick the freedom you would defend last, when defending it costs the most. Name it, defend it anyway, and say what it would take to change your mind.

FOR THE TEACHING PARENT

The strongest answers pick an unsympathetic case on purpose. Defending only the speech your child already agrees with does not meet the question.

IF THEY WANT MORE

Compare this wording to Virginia's 1776 declaration. Ask what the framers tightened, and why.

Answer: Look for a deliberately unsympathetic case. An answer that only defends agreeable speech has not met the question.

Name _____ Date _____

THE BILL OF RIGHTS IN TEN PAGES · AMENDMENT 2

The Second Amendment

> **Amendment II.** *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.*

A PREFATORY CLAUSE AND AN OPERATIVE CLAUSE

Constitutional lawyers call the first half the prefatory clause and the second half the operative clause. No other amendment is built this way. The entire modern dispute turns on a single question of grammar and intent: does a stated purpose narrow the right that follows it, or does it merely announce one reason among several for writing that right down?

THE VOCABULARY OF THE DISPUTE

- PREFATORY CLAUSE: the opening statement of purpose
- OPERATIVE CLAUSE: the part that states the right and the command
- The narrow reading: the purpose limits the right to militia service
- The broad reading: the purpose is one reason among several and does not narrow the right
- Pennsylvania 1776 protected bearing arms for defense of self AND state, without a militia clause

PRIMARY SOURCE · Pennsylvania Declaration of Rights, 1776, article XIII

That the people have a right to bear arms for the defence of themselves and the state; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up.

ARGUE BOTH READINGS AT FULL STRENGTH BEFORE YOU CHOOSE ONE.

THE PREFATORY CLAUSE LIMITS THE RIGHT: MAKE THIS CASE	THE PREFATORY CLAUSE ONLY EXPLAINS IT: MAKE THIS CASE

YOUR READING, AND WHAT WOULD CHANGE IT

State which reading you find stronger and why. Then name the single piece of evidence, historical or textual, that would most damage your own position.

FOR THE TEACHING PARENT

Grade the steel-manning, not the conclusion. If your child cannot state the opposing reading persuasively, the work is not done, whichever side they land on.

IF THEY WANT MORE

Compare Pennsylvania's 1776 wording with the federal text. Ask what the federal version left out, and whether that omission looks careless or deliberate.

Answer: Grade the steel-manning, not the conclusion. The Pennsylvania comparison is the strongest textual evidence on the page.

Name _____ Date _____

THE BILL OF RIGHTS IN TEN PAGES · AMENDMENT 3

The Third Amendment

> **Amendment III.** *No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.*

A RIGHT THAT ALMOST NEVER GOES TO COURT

The Third Amendment has been the central holding of essentially one federal case in more than two centuries. Courts have read it narrowly, and it has never been incorporated against the states outside the Second Circuit. Its underlying principle, that a home is a protected space the government may not occupy at will, survives inside modern Fourth Amendment doctrine.

WHY IT IS QUIET

- The 1774 Act reached uninhabited buildings, not occupied homes
- The amendment extends protection into wartime, which the Act never restrained
- It has never been incorporated against the states outside the Second Circuit
- Its principle, that a home is not the government's to occupy, survives in Fourth Amendment doctrine

PRIMARY SOURCE · Quartering Act of 1774, section II

it shall and may be lawful for the governor of the province to order and direct such and so many uninhabited houses, out-houses, barns, or other buildings, as he shall think necessary to be taken, and make fit for the reception of such officers and soldiers, and to put and quarter such officers and soldiers therein.

BUILD THE ARGUMENT ON BOTH SIDES BEFORE YOU DECIDE.

A DEAD LETTER: WHY THE THIRD IS A HISTORICAL ARTIFACT	STILL LOAD-BEARING: WHY THE PRINCIPLE SURVIVES ELSEWHERE

YOUR JUDGMENT, AND THE EVIDENCE YOU ARE RESTING IT ON

Read the source above closely. It authorizes seizing uninhabited buildings, not occupied homes. So what exactly were the framers guarding against in 1791, and why did they extend the protection into wartime?

FOR THE TEACHING PARENT

The strongest answers reject the binary and argue the question cannot be settled by case volume alone. That is the sophisticated move, not a dodge. Push for what evidence WOULD settle it.

IF THEY WANT MORE

Engblom v. Carey (2d Cir. 1982) is the case. Have your child read the holding and decide whether National Guard troops housed in striking officers' quarters is what the framers feared.

Answer: The strongest answers reject the binary and argue from the wartime extension: the framers guarded against what the Acts did NOT cover.

Name _____ Date _____

THE BILL OF RIGHTS IN TEN PAGES · AMENDMENT 4

The Fourth Amendment

> **Amendment IV.** *The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.*

TWO CLAUSES, AND THE ARGUMENT ABOUT HOW THEY JOIN

The amendment contains two commands. The first forbids unreasonable searches and seizures. The second sets conditions on warrants. Whether the second defines the first, so that a search without a valid warrant is by definition unreasonable, or merely constrains one route among several, is the hinge of two centuries of doctrine.

TWO COMMANDS, ONE HINGE

- First command: no unreasonable searches and seizures
- Second command: warrants require probable cause, oath, and particularity
- Reading A: the warrant clause DEFINES what is reasonable
- Reading B: reasonableness is a separate standard the warrant clause only informs
- Adams' 1780 Massachusetts wording protected persons, houses, papers and possessions

PRIMARY SOURCE · Massachusetts Constitution of 1780, Part the First, article XIV, drafted by John Adams

Every subject has a right to be secure from all unreasonable searches, and seizures of his person, his houses, his papers, and all his possessions.

ARGUE BOTH READINGS AT FULL STRENGTH BEFORE YOU CHOOSE ONE.

THE WARRANT CLAUSE DEFINES REASONABLENESS: MAKE THIS CASE	REASONABLENESS IS A SEPARATE STANDARD: MAKE THIS CASE

YOUR READING, AND WHAT WOULD CHANGE IT

Take your reading and apply it to something the framers could not have imagined: data held about you by a company you have never visited. Does your reading still work, or does it break?

FOR THE TEACHING PARENT

The point is not to reach the current doctrine. It is to notice that the sentence can carry both readings and that the choice has consequences.

IF THEY WANT MORE

Compare the federal wording with Adams' 1780 Massachusetts text above. Ask what the federal version added, and what work those additions do.

Answer: The point is not the current doctrine. It is noticing the sentence carries both readings and that the choice has consequences for data the framers never imagined.

Name _____ Date _____

THE BILL OF RIGHTS IN TEN PAGES · AMENDMENT 5

The Fifth Amendment

Amendment V. *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.*

PROCEDURE AS THE SUBSTANCE OF LIBERTY

Every clause of the Fifth is procedural. None of them says what the government may do to you. All of them say how it must go about deciding. That is a claim about liberty: that the reliability of the process, not the goodness of the outcome, is what protects a person from the state.

EVERY CLAUSE IS PROCEDURAL

- None of the five says what the government may do to you
- All five say how it must go about deciding
- The claim: reliable process, not good outcomes, is what protects a person
- Magna Carta 1215 called it the law of the land
- The Fifth calls it due process of law

PRIMARY SOURCE · Magna Carta, 1215, clause 39, in the standard English rendering

No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, except by the lawful judgment of his equals or by the law of the land.

ARGUE BOTH READINGS AT FULL STRENGTH BEFORE YOU CHOOSE ONE.

PROCEDURE IS ENOUGH: FAIR PROCESS IS THE WHOLE PROTECTION	PROCEDURE IS NOT ENOUGH: A FAIR PROCESS CAN STILL REACH AN UNJUST RESULT

YOUR POSITION, AND THE EVIDENCE UNDER IT

A perfectly fair procedure can convict an innocent person, and a corrupt one can acquit a guilty one. Given that, is due process the right thing to write into a constitution? Defend your answer and name its weakest point.

FOR THE TEACHING PARENT

The strongest answers concede the objection and defend procedure anyway, on the grounds that outcomes cannot be guaranteed but process can be required.

IF THEY WANT MORE

Trace the phrase law of the land in Magna Carta to due process of law in the Fifth. Ask what changed in the translation and whether anything was lost.

Answer: The strongest answers concede that fair process can still convict an innocent person, and defend procedure anyway because outcomes cannot be guaranteed while process can be required.

Name _____ Date _____

THE BILL OF RIGHTS IN TEN PAGES · AMENDMENT 6

The Sixth Amendment

> **Amendment VI.** *In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, 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 defence.*

RIGHTS THAT ONLY EXIST ONCE YOU ARE ACCUSED

The Sixth is unusual in the Bill of Rights: it protects nobody until the state has already turned its attention on them. Every guarantee in it is triggered by accusation. That makes it the amendment most easily narrowed, because it only ever protects people the public has reason to dislike.

RIGHTS THAT ONLY SWITCH ON WHEN YOU ARE ACCUSED

- Nothing in the Sixth protects anyone until the state acts against them
- That makes it the easiest amendment to narrow, because it protects the unpopular
- The Declaration listed transporting colonists overseas for trial as a grievance
- A right to counsel that depends on ability to pay is a different right for rich and poor

PRIMARY SOURCE · Declaration of Independence, 1776, list of grievances

For depriving us in many cases, of the benefits of Trial by Jury: For transporting us beyond Seas to be tried for pretended offences.

ARGUE BOTH READINGS AT FULL STRENGTH BEFORE YOU CHOOSE ONE.

A FLOOR: THESE ARE MINIMUMS NO PROSECUTION MAY GO BELOW	A BALANCE: THESE MUST BE WEIGHED AGAINST PUBLIC SAFETY

YOUR POSITION, AND THE EVIDENCE UNDER IT

The right to counsel is worth little if you cannot afford one. Does a guarantee that depends on your ability to pay actually guarantee anything? Take a position and name what would have to be true for the other side to be right.

FOR THE TEACHING PARENT

This question has a real constitutional history behind it, and your child does not need to know that history to reason well about it. Grade the reasoning.

IF THEY WANT MORE

Ask whether a right that only protects the accused is a right for everyone, or a right for a few. There is a strong argument on each side.

Answer: Both positions are serious. The strongest answers name exactly what would have to be true for the other side to be right.

Name _____ Date _____

THE BILL OF RIGHTS IN TEN PAGES · AMENDMENT 7

The Seventh Amendment

> **Amendment VII.** *In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.*

A CIVIL JURY, AND A CONSTITUTION THAT CANNOT UPDATE ITSELF

The Seventh guarantees a jury in civil suits over twenty dollars and forbids re-examination of a jury's factual findings except by common-law rules. It is rarely litigated and never amended. Its dollar threshold is the clearest example in the entire document of a constitutional provision outliving the world that set it.

A PROVISION THAT DRIFTED

- Twenty dollars was a real threshold in 1791
- It has never been amended
- Inflation has made it so low that nearly every civil suit now clears it
- So the clause today guarantees far MORE jury trials than it originally would have
- The drift ran in the protective direction entirely by accident

PRIMARY SOURCE · Declaration of Independence, 1776, list of grievances

For depriving us in many cases, of the benefits of Trial by Jury.

ARGUE BOTH READINGS AT FULL STRENGTH BEFORE YOU CHOOSE ONE.

FIX THE NUMBER: AN UNADJUSTED THRESHOLD DEFEATS THE CLAUSE'S PURPOSE	LEAVE IT: THE LOW THRESHOLD NOW GUARANTEES A JURY IN EFFECTIVELY EVERY CASE

YOUR POSITION, AND THE EVIDENCE UNDER IT

The twenty dollar figure has become so low that it now guarantees far more jury trials than it originally would have. Is a provision that drifted into being more protective than intended working, or broken? Defend your answer.

FOR THE TEACHING PARENT

The interesting move is noticing that the drift ran in the protective direction by accident. There is a strong case on each side.

IF THEY WANT MORE

Ask what it would take to amend a single number in the Constitution, and why nobody has bothered.

Answer: The interesting move is noticing the drift was accidental and protective. There is a strong case on each side.

Name _____ Date _____

THE BILL OF RIGHTS IN TEN PAGES · AMENDMENT 8

The Eighth Amendment

> **Amendment VIII.** *Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.*

A STANDARD, NOT A RULE

Most of the Bill of Rights sets procedures. The Eighth sets a standard, and a standard requires somebody to apply judgment in every era that inherits it. Whether that judgment should be anchored to what the words meant in 1791 or to what a society currently regards as decent is the oldest live argument in American constitutional interpretation.

THE TWO READINGS AND THEIR COSTS

- FIXED: the words mean what they meant in 1791
- Cost of fixed: practices we now find monstrous were constitutional then
- EVOLVING: the standard moves with the society applying it
- Cost of evolving: the text constrains nothing a majority does not already reject
- The wording was borrowed from 1689, which complicates both readings

PRIMARY SOURCE · English Bill of Rights, 1689

That excessive bail ought not to be required, nor excessive fines imposed; nor cruel and unusual punishments inflicted.

ARGUE BOTH READINGS AT FULL STRENGTH BEFORE YOU CHOOSE ONE.

FIXED MEANING: CRUEL AND UNUSUAL MEANS WHAT IT MEANT IN 1791	EVOLVING MEANING: THE STANDARD MOVES WITH THE SOCIETY APPLYING IT

YOUR POSITION, AND THE EVIDENCE UNDER IT

If the meaning is fixed in 1791, practices we now find monstrous were constitutional. If it evolves, the text constrains nothing that a majority does not already reject. Both readings have a real cost. Choose one, state its cost honestly, and defend it anyway.

FOR THE TEACHING PARENT

The trap is picking a side without conceding its cost. The question is written to make that impossible. Grade the honesty of the concession.

IF THEY WANT MORE

The wording is lifted almost intact from 1689. Ask whether borrowed language should be read with its original meaning or the meaning of the country that borrowed it.

Answer: Grade the honesty of the concession. A position taken without naming its cost has not met the question.

Name _____ Date _____

THE BILL OF RIGHTS IN TEN PAGES · AMENDMENT 9

The Ninth Amendment

> **Amendment IX.** *The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.*

A RULE OF CONSTRUCTION, NOT A RIGHT

The Ninth grants nothing. It is an instruction about how to read the other nine, and it exists because Federalists argued that a bill of rights was not merely unnecessary but harmful. Its practical weakness is exactly its logical strength: it protects rights it refuses to name, which makes it philosophically airtight and judicially almost unusable.

HAMILTON'S OBJECTION AND THE ANSWER TO IT

- Hamilton in Federalist 84: why declare that things shall not be done which there is no power to do
- His fear: a list implies a power over everything unlisted
- The Ninth grants no right; it is an instruction about how to read the other nine
- Its strength: it protects rights it refuses to name
- Its weakness: it protects rights it refuses to name

PRIMARY SOURCE · Alexander Hamilton, Federalist No. 84, 1788

Why declare that things shall not be done which there is no power to do? Why, for instance, should it be said, that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed?

ARGUE BOTH READINGS AT FULL STRENGTH BEFORE YOU CHOOSE ONE.

A REAL SOURCE OF RIGHTS: UNENUMERATED RIGHTS ARE JUDICIALLY ENFORCEABLE	A RULE OF READING ONLY: IT CONSTRAINS INTERPRETATION, IT DOES NOT CREATE RIGHTS

YOUR POSITION, AND THE EVIDENCE UNDER IT

If judges may enforce rights the Constitution never names, what stops a judge from inventing one? If they may not, what work does the Ninth Amendment actually do? Answer both halves. Neither has an easy answer.

FOR THE TEACHING PARENT

This is the hardest question in the set and the answer is genuinely contested among serious people. Grade the reasoning, not the conclusion.

IF THEY WANT MORE

Read Hamilton's objection in Federalist 84 in full. Ask whether the Ninth Amendment answers him or merely acknowledges him.

Answer: Genuinely contested among serious people. Grade the reasoning, not the conclusion. Both halves of the question must be answered.

Name _____ Date _____

THE BILL OF RIGHTS IN TEN PAGES · AMENDMENT 10

The Tenth Amendment

> **Amendment X.** *The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.*

ONE DELETED WORD, AND EVERYTHING THAT FOLLOWED

The Tenth is often read as a truism: powers not given are not given. But its drafting history is not neutral. The Articles of Confederation reserved to the states all powers not expressly delegated. The First Congress considered inserting expressly into the Tenth and declined. That deliberate omission is the doorway through which implied federal power walks.

ONE WORD, AND WHAT TURNS ON IT

- Articles of Confederation 1781: powers not EXPRESSLY delegated are reserved
- The First Congress considered inserting expressly into the Tenth and declined
- With expressly: only powers listed by name belong to the federal government
- Without it: powers implied by the listed ones may also be claimed
- That omission is the doorway implied federal power walks through

PRIMARY SOURCE · Articles of Confederation, 1781, article II

Each state retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.

ARGUE BOTH READINGS AT FULL STRENGTH BEFORE YOU CHOOSE ONE.

A REAL LIMIT: THE TENTH CONSTRAINS FEDERAL POWER MEANINGFULLY	A TRUISM: IT RESTATES THE STRUCTURE AND ADDS NOTHING ENFORCEABLE

YOUR POSITION, AND THE EVIDENCE UNDER IT

Compare the source above with the Tenth Amendment. One word was dropped. Argue first that the omission was decisive, then argue that it changed nothing because the structure was the same either way. Then say which you believe.

FOR THE TEACHING PARENT

Requiring both arguments before the conclusion is the point. If your child can only make the argument they already agree with, the work is not done.

IF THEY WANT MORE

Ask what powers our state exercises that the federal government does not, and whether your child thinks that division is in the right place.

Answer: Requiring both arguments before the conclusion is the point. If your child can only make the argument they already agree with, the work is not done.

If you want to go further

You do not need a single one of these books to use the pages in front of this one. They are free and they are yours. But September 17 is a good excuse for a shelf, so here is the one we built. Point a phone camera at any square.



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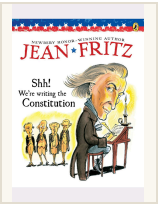


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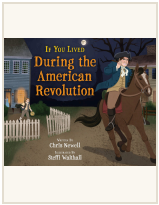


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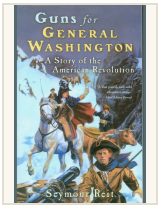


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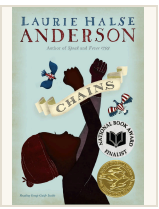


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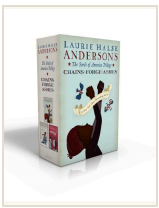


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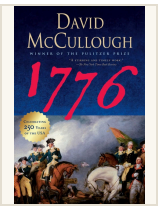


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The Bill of Rights

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AMENDMENT I

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.

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AMENDMENT VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

AMENDMENT VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

> Every amendment in this book began as a complaint. Somebody was jailed for printing, taxed for a church they did not attend, searched without cause, or made to feed soldiers in their own kitchen. The Bill of Rights is the list of things that had already gone wrong.