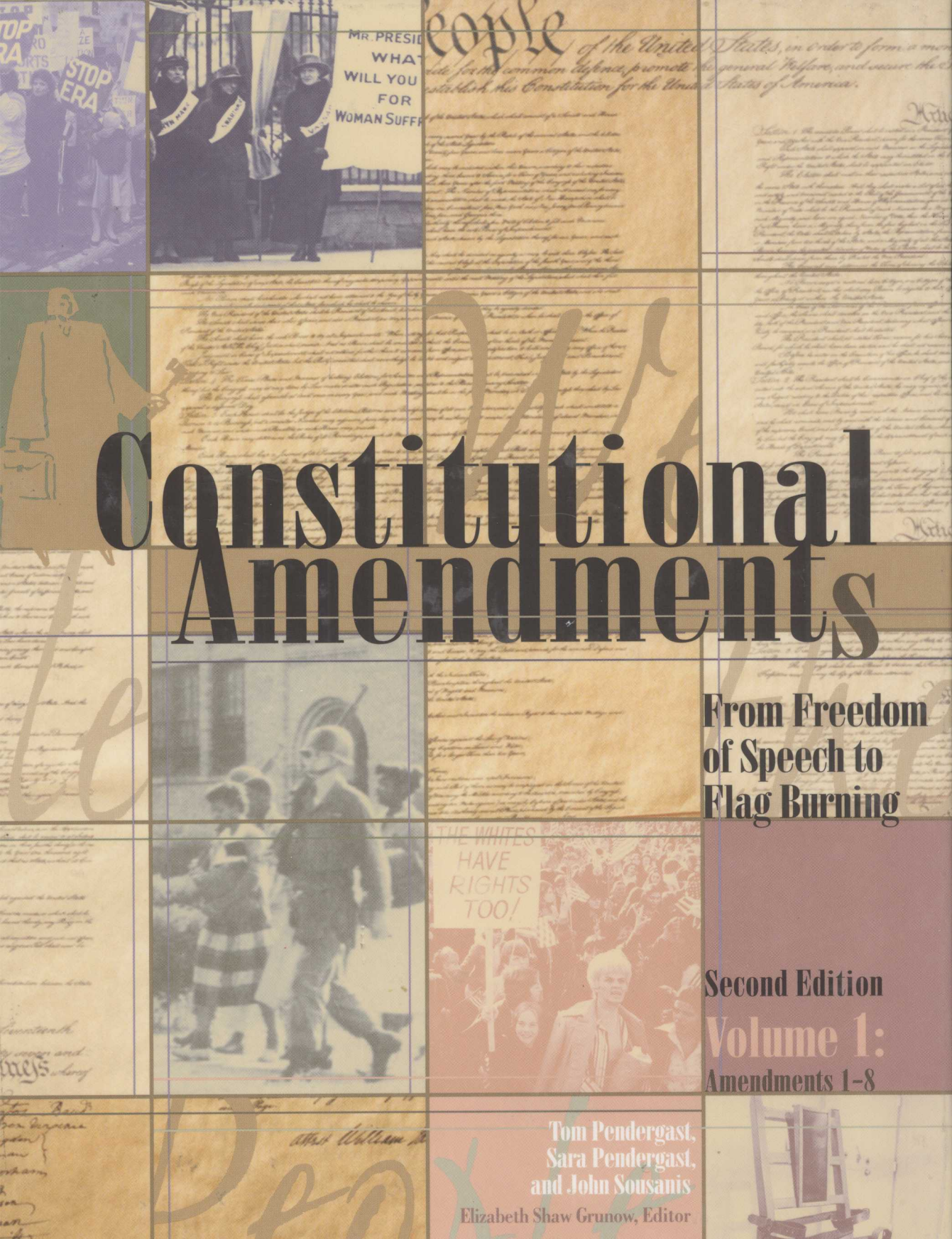




Constitutional Amendments

**From Freedom
of Speech to
Flag Burning**

Second Edition
Volume 1:
Amendments 1-8

**Tom Pendergast,
Sara Pendergast,
and John Sousanis**

Elizabeth Shaw Grunow, Editor



Constitutional Amendments

**From Freedom
of Speech to
Flag Burning**

**Volume 1:
Amendments 1-8**

Tom Pendergast, Sara Pendergast, and John Sousanis
Elizabeth Shaw Grunow, Editor



AN IMPRINT OF THE GALE GROUP

DETROIT • NEW YORK • SAN FRANCISCO
LONDON • BOSTON • WOODBRIDGE, CT

华东政法大学图书馆



04001792

Constitutional Amendments

From Freedom of Speech to Flag Burning

Tom Pendergast

Sara Pendergast

John Sousanis

Staff

Elizabeth Shaw Grunow, U•X•L Editor

Carol DeKane Nagel, U•X•L Managing Editor

Thomas L. Romig, U•X•L Publisher

Elizabeth Des Chenes, Richard Clay Hanes, Kris E. Palmer, Contributing Editors

Julie Juengling, Permissions Associate (Pictures)

Robyn Young, Imaging and Multimedia Content Editor

Pamela A. Reed, Imaging Coordinator

Rita Wimberley, Senior Buyer

Evi Seoud, Assistant Manager, Composition Purchasing and Electronic Prepress

Kenn Zorn, Senior Art Director

Pamela A. E. Galbreath, Senior Art Designer

Linda Mahoney, LM Design, Typesetting

Cover photographs: Reproduced by permission of the Library of Congress.

Library of Congress Cataloging-in-Publication Data

Pendergast, Tom.

Constitutional amendments from freedom of speech to flag burning / Tom Pendergast, Sara Pendergast, and John Sousanis ; Elizabeth Shaw Grunow, editor.

p. cm.

Includes bibliographical references and index.

ISBN 0-7876-4865-5 (set: hardcover)-ISBN 0-7876-4866-3 (v.1)-ISBN 0-7876-4867-1 (v.2)-ISBN 0-7876-4868-X (v.3)

1. Constitutional amendments-United States-Juvenile literature. 2. Constitutional law-United States-Juvenile literature. 3. Civil rights-United States-Juvenile literature. [1. Constitutional amendments. 2. Constitutional law. 3. Civil rights.] I. Title: Constitutional amendments. II. Pendergast, Sara. III. Sousanis, John. IV. Title.

KF4557 .P46 2001

342.73'03-dc21

00-067236

This publication is a creative work fully protected by all applicable copyright laws, as well as by misappropriation, trade secret, unfair competition, and other applicable laws. The authors and editors of this work have added value to the underlying factual material herein through one or more of the following: unique and original selection, coordination, expression, arrangement, and classification of the information. All rights to the publication will be vigorously defended.

Copyright © 2001 U•X•L, an imprint of the Gale Group

All rights reserved, including the right of reproduction in whole or in part in any form.

Printed in the United States of America

10 9 8 7 6 5



Reader's Guide

The Constitution of the United States has been the supreme law of the land for more than two centuries, since it was formally adopted in 1788. The Constitution's longevity as the basis for the U.S. government owes much to its original framers. Their decision to provide a system of checks and balances among the various branches of government and to create a form of representation that took into account the interests of big and small states left room for a growing country to adapt and reinterpret the Constitution. However, the Constitution has never been a purely static document: because the framers created a process for amending the Constitution, over the years the document has been changed and expanded in response to changes in American society. It is a process that is never taken lightly, for it means tinkering with the very framework of the nation's political system. Yet from the years immediately following its ratification through the 1990s, Americans have successfully amended the Constitution twenty-seven times, and made attempts to change it numerous other times.

Constitutional Amendments: From Freedom of Speech to Flag Burning devotes a single chapter to each of the existing amendments to the United States Constitution as well as a final chapter that looks at several amendment proposals that have not been ratified.

An Introduction provides general information about the drafting of the Constitution, the interpretive powers of the Supreme Court, and the ratification process that supplements the information provided for each of the individual amendments.

Chapters average approximately six thousand words in length and examine the historical origins of the amendment, the drafting and ratifi-



Reader's Guide

cation of the amendment, and the consequent impact the amendment has had on American society. In general, cases pertaining to an amendment are discussed in chronological order. However, in some instances an amendment's various clauses are discussed separately in order to clarify the particular significance of each clause.

Additional Features

Constitutional Amendments is organized for easy fact-finding:

- Each chapter is headed by the full text of the constitutional amendment it is covering.
- Standard sidebars containing the ratification facts of each amendment also appear at the beginning of each chapter.
- The issues and amendments are presented in language accessible to middle school users.
- Challenging terms are sometimes used, so a Words to Know section is included in each volume. The section defines words and terms used in the set that may be unfamiliar to students.
- Sources for further study are included at the end of each chapter.
- The three volumes also contain more than 150 photos and illustrations to further enhance the text.
- Each of the three volumes also includes a research topics section and a general subject index for locating key people, places, events, and cases discussed throughout *Constitutional Amendments*.

Suggestions Are Welcome

We welcome your comments on *Constitutional Amendments: From Freedom of Speech to Flag Burning*. Please write, Editors, *Constitutional Amendments*, U•X•L, 27500 Drake Road, Farmington Hills, MI 48331-3535; call toll-free: 1-800-877-4253; fax to 248-414-5043; or send e-mail via <http://www.galegroup.com>.



Advisory Board

Special thanks are due for the invaluable comments and suggestions provided by U•X•L's *Constitutional Amendments* advisors:

- Connie Altimore, American History teacher, Northeast Middle School, Midland, Michigan
- Nancy Guidry, Young Adult Librarian, Santa Monica Public Library, Santa Monica, California
- Ann Marie LaPrise, Children's Librarian and Assistant Manager, Elmwood Park Branch, Detroit Public Library, Detroit, Michigan



Contributors

The following writers contributed to U•X•L's *Constitutional Amendments*:

- John Sousanis, chapters 1-10, 12
- Tina Gianoulis, chapters 11, 16, 24, 27
- Richard Clay Hanes, chapters 13-15
- Sara Pendergast, chapters 17, 25
- Tom Pendergast, chapters 18, 21, 22, 23 (with Tim Seul), 28
- Tim Seul, chapters 19, 20, 23 (with Tom Pendergast), 26



Research and Activity Ideas

The following list of research and activity ideas is intended to offer suggestions for complementing social studies and history curricula, to trigger additional ideas for enhancing learning, and to suggest cross-disciplinary projects for library and classroom use.

Discussing a Free Press: The First Amendment limits government interference with a free press. Consider how the news media might differ if the government were allowed to directly influence or censor the press. Make a list of all the stories in a single edition of a newspaper or weekly news magazine. Have students discuss which stories might be censored if the First Amendment didn't exist. Physically cut these stories from the publication to demonstrate the impact the Amendment has had. For further discussion, have students suggest stories that a government-controlled press might add to a newspaper, such as articles praising officials or government actions. Finally, discuss the impact a government-controlled press might have on today's society.

Religious Diversity: The First Amendment's Establishment Clause helps protect religious diversity in the United States. Using almanacs, census data, or other sources, create graphs and charts that compare how many different religions are practiced in your community, your county, and your state. Discuss how life might be different if there were a single government-established religion.

Debating the Right to Bear Arms: Over the years the Second Amendment has been interpreted quite differently by different groups. Groups debate whether the amendment simply protects a



Research and Activity Ideas

state's right to establish a militia or whether it also guarantees the individual's right to own weapons. After discussing the chapter on the Second Amendment divide the class in half, with each half taking one side of the debate. The students in each group should work together to rewrite the amendment in a way they believe clearly states their side of the debate. Then have the entire class discuss how the proposed amendments would affect today's society.

Living the Third Amendment: The Third Amendment limits the practice of quartering (or housing) soldiers in private homes. During the French and Indian War, American colonists were sometimes forced to house British soldiers in their homes. Imagine that your family has been asked to house one or more soldiers. Write a journal entry discussing how such an arrangement might impact your daily life.

Voting Rights: The Fifteenth, Nineteenth and Twenty-sixth Amendments granted the right to vote to groups of people who were previously denied the right. To help students understand the importance of political participation, divide the class into groups by gender, birth months, or other criteria. Then put several fictitious decisions up for a vote, such as which popular band the class would like to invite to play at the school or which team sport should be cut from the school's athletic program. With each vote, look at how the results would differ if one or another group's votes were not counted. Discuss the impact of limiting or widening the number of people allowed to vote in real elections.

Government Bans: Look at the history of the temperance (anti-alcohol) movement. Discuss why the Eighteenth Amendment prohibition on alcohol sales and consumption was passed and the reasons the Twenty-first Amendment later repealed it. Consider the difficulties of establishing a complete ban on other products considered unhealthy or dangerous, such as cigarettes.

Interpreting Amendments: Over the years the Supreme Court has changed the way it interprets various Constitutional amendments. Track the Court's changing interpretation of a particular amendment from the time it was passed to the present day. Discuss how the same amendment could be understood differently at different times in history and by different justices.

Draft a New Amendment: Divide your class into groups and have each group choose an issue they feel strongly about. Have the group

write a proposal for a constitutional amendment that incorporates their idea. Issues could range from serious political issues to more frivolous ideas such as imposing a national dress code. Each group should then present its amendment for debate with the rest of the class. Discuss whether the amendments might be interpreted to mean something other than what the drafters intended. After the class discussion, allow each group to rewrite their amendment. Finally, put the redrafted amendments up for a vote of the class.

Unratified Amendments: Chapter twenty-eight looks at a number of unratified constitutional amendments. Have students write an essay on how American society might be different if one of these amendments were ratified.



**Research
and Activity
Ideas**



Words to Know

A

Abolition: Total opposition to all slavery.

Abolitionists: Those who fought for an end to slavery.

Abortion: A biological event or medical procedure that terminates a pregnancy.

Abridge: To lessen.

Absentee ballot: A ballot that can be mailed in, so that a person can vote if they are away from home during an election.

Abstinence: The act of abstaining or avoiding something, for instance, the use of alcoholic beverages.

Acquittal: A trial outcome in which a defendant is free from a charge.

Activist: Someone who works hard for a political cause.

Aerial surveillance: Watching activity from the air, usually in a helicopter or airplane.

Affirmation: A solemn declaration.

Appeal: A legal proceeding in which a case is taken before a higher court for rehearing.

Apportionment: The process of determining how many representatives a particular state, county, or other kind of region should send to a legislature.



Words to Know

Articles of Confederation: An early constitution for the United States that set up a weak central government. The document was ratified in 1781 but was replaced by the U.S. Constitution in 1789.

Assistance of counsel: The help of outsiders in a trial. The term usually applies to the aid of a professional attorney.

Attorney: A person who is legally qualified to represent someone or some group in a court of law. A lawyer.

B

Billet: Lodging for troops in nonmilitary buildings.

Bill of Rights: The first ten amendments to the U.S. Constitution. These amendments clarify certain personal freedoms not clearly defined in the language of the Constitution.

Bipartisan: Supported by two groups/political parties.

Bond: A certificate issued by a company or government that promises to pay back the cost of the certificate with interest.

Bootlegging: The illegal manufacture, sale, or transportation of liquor.

Bounty: A reward for performing a certain task.

Boycott: A political tactic by which a group of people refuse to use a product or service to protest something they don't like about the producers of the product or service.

British Empire: Worldwide territories governed by or linked to Great Britain.

C

Candidate: A person nominated for a political office.

Capital crime: A crime that is punishable by death.

Capital gains: The profit that is made from selling something.

Civil rights: A series of basic rights written in the Constitution and identified through time that are to be enjoyed by all citizens without undue government interference.



Words to Know

Civil trial: A trial in which a person (or group) who has been injured seeks payment from the person who caused the injury. In a civil trial the person bringing the case to the court is seeking a remedy (solution) to a problem, whereas in a criminal trial an entity (usually the state) is seeking to have someone punished for an illegal action.

Civil War: War fought between the Northern (Union) states and the Southern (Confederate) states from 1861 to 1865 over issues such as state and federal power and the future of slavery in the United States.

Coalition: A temporary alliance of different groups seeking a similar goal.

Cold War: A state of political tension between the Soviet Union and the United States that lasted from roughly 1947 to 1989.

Colony: A territory controlled by a distant government.

Commerce: The large-scale exchange of goods and products involving transportation.

Common law: Legal tradition. Many of America's legal traditions can be traced to English common law.

Compensation: Something given to someone in return for something else; often, payment given in exchange for work performed.

Compromise of 1850: A political deal aimed at easing the conflict between slave and free states, this compromise allowed California to join the United States as a free state in exchange for giving slave owners the right to travel into free territory to capture runaway slaves.

Compulsory process: A process by which courts subpoena (command someone to appear in court) witnesses for the defense and prosecution.

Confederacy: Also known as the Confederate States of America; the eleven Southern states that seceded, or withdrew, from the United States during the Civil War (1861–65).

Congress: The legislative, or law making, branch of the U.S. government. Congress is made up of two parts, called houses: the Senate and the House of Representatives. The Senate gives each state equal representation, while representation in the House of Representatives is roughly proportionate to the state's share of the country's total population.



Words to Know

Conscription: Compulsory enrollment in the armed forces; the draft.

Consensus: Widespread agreement; an opinion reached by the majority.

Construe: To interpret.

Consumer: Someone who uses or buys a product or service.

Conviction: A trial outcome in which a defendant is found guilty of a charge.

Corruption: Wrong-doing in government.

Criminal trial: A trial in which the government seeks to punish someone for a crime. In a criminal trial an entity (usually the state) is seeking to have someone punished for an illegal action, whereas in a civil trial the person bringing the case to the court is seeking a remedy (solution) to a problem.

D

Declaration of Independence: Completed on July 4, 1776, the document—which was written primarily by Thomas Jefferson—lists the complaints of the thirteen American colonies against Great Britain and formally announces their independence from the British Empire.

Deduction: In taxes, an expense a taxpayer can subtract from his/her taxable income.

Desecration: The violation of something sacred.

Discrimination: Giving privileges to one group but not to another similar group.

Diplomat: Someone who represents the government of his or her country during relations with other countries.

Direct election: An election in which people vote, not an election in which representatives vote in the place of the public.

Domestic product: Something that is made within a country. The opposite of domestic is foreign.

Due process: Proceedings carried out within established guidelines that do not limit or violate a person's legal rights.

E

Effective counsel: Helpful legal assistance.

Electors: Representatives from each state who cast the actual votes for president and vice president of the United States.

Electoral College: A body of electors, or representatives, from each state, who elect the president and vice president of the United States. These electors vote based on numbers gathered through the count of the popular vote in each state, which is the actual vote of the citizens of that state.

Electoral majority: Votes from a majority of the electors in the Electoral College.

Emancipation: The act of freeing one person from the control and authority of another.

Embargo: A government order forbidding trade with another country.

Eminent domain: Literally, the term means “highest claim to ownership of land.” The concept allows a government to take private property for public use because the government is thought to have eminent domain over all the lands it rules.

Enumerated rights: Rights that are specifically defined in the Constitution or its amendments.

Enumeration: An official count, as of the number of citizens in a legislative district.

E pluribus unum: A Latin phrase meaning “Out of many, one.” It is one of the mottoes of the United States.

Equal protection of the laws: A right that states that no person or class of persons can be denied the same protection of the laws pertaining to their lives, property, and pursuit of happiness as others in similar circumstances.

Equitable claim: A civil claim in which the plaintiff (person bringing suit in court) seeks to cause the defendant to perform certain actions (or to stop performing others). Equitable claims are not covered by the Seventh Amendment.

Ethics: Moral values.



Words to
Know



**Words to
Know**

Evangelical: Characterized by ardent or crusading enthusiasm. Evangelical churches actively seek to spread their message and recruit new members.

Exclusionary rule: A legal concept asserting that evidence found during an illegal search should not be used against a defendant in court. The exclusionary rule is a relatively recent concept in legal history that is now applied in most American criminal trials.

Excise tax: An extra charge added to the price of some domestic products.

Exemption: In taxes, part of the income on which the taxpayer is allowed not to pay taxes.

Express powers: Federal powers that are specifically enumerated or listed in the Constitution or its amendments.

F

Faithless elector: A term used to describe a representative who does not vote the way he or she had promised to before being selected to the Electoral College. By the end of the twentieth century, only eight electors in the history of the Electoral College had cast such “faithless” votes.

Farmer’s alliances: Groups of farmers who met to discuss their problems and agree on common goals so that they could increase their political power and improve the conditions of their lives.

Federalism: The type of government in which separate states come together to form a union. Also, the kind of politics within such a government by which people believe the states should have their own identity and power separate from the national government.

Federalist Party: A political party founded in 1787 that argued for the establishment of a strong federal (central or national) government.

Federation: A government in which separate states unite for greater strength.

Filibuster: An attempt to obstruct the passage of legislation, often with prolonged speechmaking.

Flat tax: A tax with one rate for everyone.

Flogging: Very hard beating, usually with a whip or a stick.

Frisk: To search a person by running ones hand over the person's clothes and through his or her pockets.

Fruit from the poisonous tree: A term for evidence that is obtained as a direct result of other illegally obtained evidence. Such "fruit" is often not allowed to be used in court.



Words to
Know

G

General warrant: A type of warrant (a document issued by a judge allowing the holder to search the premises) used by British officials until the end of the eighteenth century. A general warrant lacked probable cause and usually did not name specific people or places to be searched.

Good faith exception: A concept that allows illegally gained evidence to be used in court, if the police officer did not willfully break the law in obtaining it. Allows for honest mistakes by law enforcement officials.

Graduated tax: A tax where the rate increases in steps, little by little.

Grand jury: A group of citizens assembled to decide if the government has enough evidence against an accused person to justify holding a trial.

Great Britain: At the time of the American Revolution, Great Britain was a single state made up of England, Wales, and Scotland. Today, Great Britain, or the United Kingdom, also includes Northern Ireland. Great Britain ruled the thirteen American colonies until the American Revolution in 1776.

Great Depression: A worldwide economic collapse that began with the stock market crash of 1929.

Grievance: A complaint about an unjust act.

H

Historical test: The method used to determine which civil cases are entitled to a jury trial under the Seventh Amendment. If a case in federal courts historically would have been entitled to a jury trial under English common law, a jury is used.