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ABSTRACT

This publication is intended for teachers bringing a class to visit the National Archives in Washington, D.C., for a workshop on primary documents. The National Archives serves as the repository for all federal records of enduring value. Primary sources are vital teaching tools because they actively engage the student's imagination so that he or she may visualize past events and make sense of their reality and meaning. This publication concerns the Bill of Rights to the U.S. Constitution. Historical information on the Bill of Rights as well as on the internment of Japanese Americans during World War II is included. A photograph of the Bill of Rights and a photograph of persons of Japanese ancestry arriving at an internment center during World War II are included, as are two student exercises. (DB)

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The Charters of Freedom

The Bill of Rights

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The Charters of Freedom

The Bill of Rights

FOR THE TEACHER

Thank you for arranging a National Archives workshop for your class. For too many students, history is just an endless string of dates and events chronicled in a textbook. Primary sources actively engage the student's imagination so that he or she may visualize past events and sense their reality and meaning. Before your workshop, it would be advantageous to introduce your students to primary sources with the poster-size documents and the attendant exercises we have provided. The exercises may be photocopied and should be adapted to fit your objectives and teaching style. We hope that these preliminary materials and our workshop will enhance your class's understanding and appreciation of the symbol and the substance of the American conception of individual liberty, the Bill of Rights.

The Bill of Rights

One of the major reasons for much of the battle over the ratification of the U.S. Constitution was the absence of a bill of rights. In December 1787, after the Constitutional Convention at Philadelphia had adjourned, George Mason (a prominent Convention delegate and principal architect of Virginia's Declaration of Rights in 1776) succinctly stated the crux of Antifederalist opposition in a published explanation of his refusal to sign the Constitution: "There is no declaration of rights; and the laws of the general government being paramount to the laws and constitutions of the several states, the declarations of rights in the separate states are no security."

Those delegates who had signed the Constitution did not oppose the principle of a bill of rights. They merely believed it unnecessary because the new federal government would be one of expressed powers only, and the state constitutions had already secured the fundamental rights of individuals. Other delegates placed little faith in what James Madison derided as "parchment barriers" against majority rule and thus sought protection in structural arrangements such as the separation of powers and its attendant system of checks and balances.

Structural arrangements, however, did not satisfy the Antifederalists, and they quickly learned that the absence of a bill of rights gave them an effective way to attack the Constitution. The opponents of ratification used this powerful argument to gain the upper hand, and it soon became apparent to the Federalists, and specifically to James Madison, that a proposal to add amendments to the Constitution after its ratification was inevitable. Even Thomas Jefferson, who for the most part favored the new government, wrote to Madison that a bill of rights was "what the people are entitled to against every government on earth." Only by making such a concession were the Constitution's supporters able to win ratification in such closely divided states as New York and Virginia.

In the First Federal Congress, Madison worked tirelessly to fulfill his pledge. Carefully selecting 17 amendments from proposals introduced by the state ratifying conventions, Madison guided this legislation through Congress despite indifference on the part of some House members (who thought the House had more pressing concerns) and open antagonism on the part of others (Antifederalists who sought a second convention to curtail the powers of the federal government). On October 2, 1789, after the Senate had trimmed down the amendment package from 17 articles to 12, President Washington submitted copies of the adopted amendments to the states for ratification. With Virginia's ratification on December 15, 1791, three-fourths of the states had ratified the Bill of Rights, and it became part of the Constitution.

The reproduction on the front of your poster is a copy of the original Bill of Rights, which is enshrined at the National Archives. Your students probably know that the first 10 amendments to the Constitution constitute the Bill of Rights. They should notice, however, that the original Bill of Rights lists 12 amendments. The two additional amendments, "Article the first" concerning the number of representatives and "Article the second" dealing with a time constraint on congressional pay raises, were not ratified in 1791. The second article, however, eventually received the ratification of three-fourths of the states on May 7, 1992, when Michigan became the 38th state to approve it. The 203-year odyssey of what is now the 27th amendment culminated on May 18, 1992, when the Archivist of the United States, Don W. Wilson, certified its legitimacy as required by law.

Never before had ratification taken two centuries. In 1921 and 1939 the Supreme Court ruled that constitutional amendments must be ratified within a reasonable period of time but left it up to Congress to define what that meant. Congress established a 7-year time limit for ratification of amendments sent to the states (the Equal Rights Amendment, for example, was a casualty of this time restriction). The first Congress, however, set no such limit on the pay raise amendment, making its delayed ratification possible.

Using the reproduction of the original Bill of Rights as a starting point, discuss with your class the nature of this constitutional anomaly. Ask your students to research the 27th amendment's extended quest for ratification by consulting newspaper articles and more recent works such as William L. Miller's *The Business of May Next: James Madison & the Founding.*

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The Internment of Japanese Americans

The Japanese torpedoes that decimated the U.S. Navy at Pearl Harbor on December 7, 1941, plunged the United States into a global struggle for survival. The conflict also brought about a critical test of the nation's constitutional democracy. If the United States was to survive, could the Constitution survive with it? Could civil liberties, the rights of individuals and of minorities, be upheld during times of national crisis?

The relocation and internment of more than 100,000 civilians of Japanese descent by the U.S. government during World War II was clearly an ominous failure of that test. Uprooted from their homes, their businesses, and their farms, Japanese Americans were held from 1942 to 1945 under armed guard and behind barbed wire. They were thoroughly deprived of their constitutional rights of personal security: the right to move about freely, the right to live and work where one likes, the right to establish and keep a home, and the right not to have these rights violated or withheld without formal charges, proper notice, a fair hearing and trial, and all the other procedural requirements of due process of the law.

In three cases challenging the policy of evacuation and detention — *Hirabayashi* v. *United States* (1943), *Korematsu* v. *United States* (1944), and *Ex parte Endo* (1944)—the U.S. Supreme Court effectively managed to avoid wrestling with the constitutionality of internment. The Court chose to view the program of the miltary authorities as a series of separate orders and not as an overall plan. According to the Court, the separate orders for persons of Japanese ancestry were as follows: "(1) depart from the area; (2) report to and temporarily remain in an assembly center; (3) go under military control to a relocation center there to remain for an indeterminate period." This reasoning allowed the Court to hand down, on the same day, a decision against Fred Korematsu (declaring that as he was convicted of violating only the first order, it was unnecessary to question the constitutionality of anything more than that particular exclusion order) and a decision for Mitsuye Endo (declaring that the War Relocation Authority had overstepped its authority in executing the third order) without either of the two cases overturning the other. In *Ex parte Endo*, only Justice Owen Roberts protested the Court's reluctance to face up to the serious constitutional issues at stake: "I concur in the result but I cannot agree with the reasons stated in the opinion of the court for reaching that result. As in *Korematsu* v. *United States*, No. 22 of this Term, the court endeavors to avoid constitutional issues which are necessarily involved." Nonetheless, the Court's decisions in all three cases had injected into American law a dangerous doctrine of military supremacy during time of war and set a precedent for repressive action against minority groups. In 1988 Congress authorized restitution payments of $20,000 to each of the 60,000 surviving internees and apologized for the injustice.

The reproduction on the back of your poster is a photograph of evacuees arriving at the notoriously overcrowded "Assembly Center" at the Santa Anita Racetrack (men, women, and children were housed in stalls) on April 5, 1942. With this as a starting point, have your students consider whether or not such an event could happen today. When formulating their answers, they should keep in mind the legal precedent [illegible] he Supreme Court and subsequent congressio-[illegible] ons.

What is the National Archives?

Established in 1934, the National Archives helps preserve our nation's history by serving as the repository for all federal records of enduring value. It thus serves the federal government, researchers of many topics, and the American public. Because federal records reflect and document more than 200 years of American development, the records in the National Archives holdings are great in number, diverse in character, and rich in information.

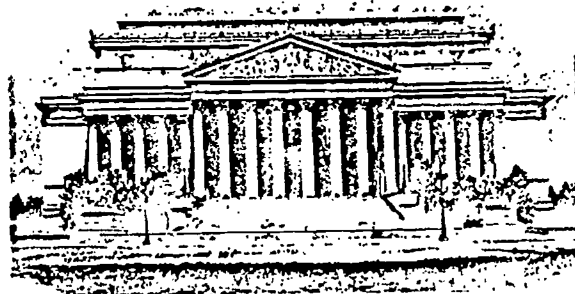
Before your students participate in a tour or a workshop, they should be familiar with the mission of the National Archives. We recommend that you present your students with the following vocabulary words and questions:

- *Please define Archives, Archivist, Document, Record, Preservation.*
- *Why do you and your family save documents? Why are they important?*
- *The U.S. government keeps its records in the National Archives.*
  Why does the government save its records?
- *What kinds of records might the U.S. government want to save?*
- *What famous documents are at the National Archives?*

You will be called by the National Archives docent assigned to your class about a week before the date of your tour or workshop. If the workshop will be held in your classroom, then please be prepared to relay information concerning directions, parking, and school check-in procedures.

Whether it is our Behind-the-Scenes Tour or one of our Primary Document Workshops, we are confident that the experience will provide an exciting new look at history. In order to assess our performance, we would appreciate your cooperation in completing the enclosed evaluation form and returning it in the self-addressed, stamped envelope provided.

If you have any additional questions regarding your tour or workshop, please contact the Volunteer and Tour Office Staff at 202-501-5205.



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Exercise I:

The Bill of Rights

Study the reproduction of the Bill of Rights. *Remember, this was the original bill submitted to the states for ratification.*

1. Where and when was the Congress being held? ________________

2. Who was the Speaker of the House? Who was the President of the Senate? ________________

3. Is "Article the first" the first amendment to the Constitution? ________________

4. Is "Article the second" the second amendment to the Constitution? If not, then which amendment is it? ________________

5. Which amendment makes it illegal for the government to tell you where to go to church?

6. Which amendment forbids the government from torturing those who have committed a crime? ________________

7. Which amendment protects your home from unlawful (without a "warrant") entry and the taking of your possessions by the police? ________________

8. Which amendment makes it illegal for military personnel to use your home for barracks?

9. What exactly does the ninth amendment mean for a U.S. citizen? ________________

Exercise II:

Persons of Japanese ancestry arriving at the Santa Anita Assembly Center

Study the photograph carefully in order to form an historical understanding of what is taking place.

1. Is this a civil disturbance? ______________________________

2. Who are the people lined up against the train? ______________________________

3. Why are they lined up against the train? ______________________________

____

4. What is the role of or the need for military personnel in this circumstance? ______________________________

____

5. What is the year? What event is being depicted? ______________________________

____

6. What previous political events have brought this moment to pass? ______________________________

____

7. Why did people think at the time that actions like the one depicted in the photograph were essential to the national security of the United States? Evaluate these reasons.

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8. After having ascertained the event taking place and its larger historical context, determine whether or not the individual liberties of the civilians in the photograph were protected or violated according to the Bill of Rights.

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Congress of the United States

begun and held at the City of New-York, on
Wednesday the fourth of March, one thousand seven hundred and eighty nine.

THE [illegible]

RESOLVED [illegible]

ARTICLES [illegible]

Article the first. [illegible]

Article the second. [illegible]

Article the third. [illegible]

Article the fourth. [illegible]

Article the fifth. [illegible]

Article the sixth. [illegible]

Article the seventh. [illegible]

Article the eighth. [illegible]

Article the ninth. [illegible]

Article the tenth. [illegible]

Article the eleventh. [illegible]

Article the twelfth. [illegible]

ATTEST, [illegible]

[illegible] Speaker of the House of Representatives.
John Adams, Vice-President of the United States, and President of the Senate.

[illegible]

The Bill of Rights
The National Archives

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Persons of Japanese ancestry arriving at the Santa Anita Assembly Center
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