



Let's Study the Constitution, Part 8

By Susan Frickey, CSG student

The [Sixth Amendment](#): *“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 defense.*”

The Sixth Amendment doesn't get much press, but it is a foundational part of our guaranteed freedoms. In the Founders' and Framers' experience of English history, people had been arrested, tortured and even executed in secret trials. That's why the Framers wanted trials “out in the light of day” where everyone could see what was going on.

Of primary importance is the arraignment clause; that if one is ever charged with a crime, one must be fully informed of the nature and cause of the accusation. Many of the Founders' ancestors had fled to America to avoid religious persecution. In England, it was common for people who did not agree with the Church of England to be secretly arrested, pulled into court, and sentenced, never even knowing why.

In England, accused persons were often removed to far-away locations where no one knew them or could vouch for them when they stood trial. In Colonial America, the British would arrest someone and just throw him or her into the brig indefinitely without ever disclosing the charges. This was one of the many grievances listed in the Declaration of Independence sent to King George. The Framers wanted an end to this injustice. They found it essential to define a defendant's associated natural rights so protection could be assured.

The [Seventh Amendment](#) reads, *“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.”*

The tradition of trial by jury began in England around the 12th century. Originally, juries were a group of twelve local men who were brought in to tell what they knew about the facts of the case – they were essentially the witnesses. Often, juries were brought together to accuse political opponents of the King of various crimes in order to do away with the opposition.

During the years leading up to the Revolutionary War, colonial American juries became one of the leading places for colonists to express their dissent against the British government, because of a series of laws England passed which became known as the Navigation Acts. These laws were designed primarily to strengthen England's trading position against her enemies by requiring that goods produced in England, or her colonies, be shipped only on British ships and, in many cases, only to British colonies or to England. The Acts isolated the colonies, prohibiting their trade with other nations and violated the natural law of free market economics for the now independent-minded colonists. So Americans began to engage in smuggling to get the goods they needed without paying an exorbitant price.

As the smuggling escalated, the Crown began to prosecute more and more colonists for violating the unreasonable trade restrictions. As these cases went to trial, the juries often acquitted their fellow colonists of any wrongdoing, nullifying the illogical laws. This outraged the King, who set up new courts that didn't allow juries. Our Framers had all this in mind when they created the Seventh Amendment.

So now you know the rest of the story. Jury trials, where citizens or peers are selected in an impartial manner, are to prevent the abuse of power from judges, officials, or Kings with an agenda, so that decisions are put into the hands of a group of average citizens who objectively look over the evidence and render a verdict. This greatly reduces the possibility of corruption in the trial process, or of an American citizen being railroaded, and makes it possible for juries to nullify bad or unjust law.

The [Eight Amendment](#) says, *“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”*

This Amendment protects Americans from excessive amounts of bail. It is unfair to keep a person in jail for a long time on unproven accusations. If a citizen cannot afford the bail and has to stay in jail until his trial date, he cannot adequately prepare his own defense. The Eighth Amendment is most often challenged legally because of the “cruel and unusual” aspect.

The Sixth, Seventh, and Eighth Amendments are all rights protected by the Constitution dealing with our justice system. Interestingly, of the 26 rights

mentioned in the first eight Amendments, fifteen of them have something to do with the justice system. One can see how important the preservation of these rights was to the Framers, as James Madison, known as the Father of the Constitution, said *“Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit.”*

Resources: *The United States Constitution Made Easy*, by Lonnie D. Crocket; *The Words We Live By*, by Linda Monk; *Original Documents*, pages 233-287; www.revolutionary-war-and-beyond.com, www.public.getlegal.com

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