**Essential Questions on the Bill of Rights!**

**Directions:** With a partner, read the following article and answer the questions in the space below.

The “Bill of Rights” is the first ten amendments of the U.S. Constitution; the Bill of Rights was ratified in 1791. It was intended to protect the people from the federal government abusing its power, specifically as to the rights of political and religious expression, the rights and protections accorded individuals accused of crimes, private property protection, and the rights of the people as they relate to federal and state laws. The Bill of Rights also includes rights related to gun ownership and the housing (quartering) of soldiers.

1. What is the Bill of Rights and what was its original purpose when it was created?

While the Bill of Rights was not included in the original U.S. Constitution, the notion that the federal government would abuse its powers relative to the people was very much a part of the constitutional debate. **The Anti-Federalists**, who pushed for more power for the states and a decentralized federal government. **Federalists** believed in a strong role for the Federal government. The Anti-Federalists feared that the failure to include a bill of rights that would protect the people in the newly created US Constitution would result in a new federal government that would abuse its newly acquired powers. The Anti-Federalists suggested a compromise position where, once the Constitution was ratified, a series of amendments enumerating specific protections would be considered by the new Congress.

1. Who were the Federalists *and how were they different* from the Anti-Federalists, according to the paragraph above?

The first word of the Bill of Rights, “Congress”, speaks to the focus of the Bill of Rights on the federal government. Under the Bill of Rights, citizens are guaranteed the right to free speech, free press, free religious exercise, assembly, and the right to petition the government. Citizens are also guaranteed that Congress will not establish a religion, which is a right related to, though different from, free religious exercise. The Bill of Rights also protects those accused of a crime in that they are entitled to due process of law, and are protected from incriminating themselves, “cruel and unusual” punishment, unreasonable search and seizure and being tried twice for committing the same crime.

1. Name four of the rights and freedoms found in the Bill of Rights that were mentioned above?

The concept of “due process” also includes the right to legal representation in criminal trials, the right to face one’s accuser, and the right to trial by jury. The Bill of Rights also protects property rights in that citizens may not be forced to house military personnel during peacetime and only during wartime by an Act of Congress, and that citizens’ property may only be taken with “just compensation”.

1. What does the concept of **“due process**” mean? Write your answers in full sentences below.

The Ninth Amendment recognizes that the Bill of Rights does not include all rights that are protected by the Bill of Rights. The Ninth Amendment states that rights that are not otherwise listed (enumerated) remain extended to the people. Rights not listed in the first eight amendments that have been recognized by the U.S. Supreme Court as Ninth Amendment rights include the right to privacy and the right to have children.

1. Based on your understanding of the paragraph above, what does the Ninth Amendment to the Bill of Rights refer to?

Other rights that have been extended to citizens linked to political expression include the right to vote (suffrage). These rights are enumerated in the 14th, 15th, 19th and 26th amendments as they extend to specific populations, as well as other voting rights related to election procedures (24th Amendment). *For more information related to the 14th, 15th, 19th, 24th, and 26th amendments, see the lesson for SS.7.C.3.7 – Analyze the impact of the 13th, 14th, 15th, 19th, 24th, and 26th amendments on participation of minority groups in the American political process.*

The Bill of Rights has been subject to extensive interpretation by the U.S. Supreme Court. Many argue that the most notable interpretation occurred when the Court decided, in Gitlow v. New York (1925), that the 14th amendment could serve as a tool for applying the Bill of Rights to state law**. The 14th amendment includes :**“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.”

The Gitlow case extended the “equal protection” and “due process” clauses of the Bill of Rights to the states on a selective basis. Because states may not deny U.S. citizens their due process and equal protection rights under the 14th amendment, U.S. citizens are protected when state laws deny them their rights under the federal Bill of Rights.

1. Do you think the 14th Amendment to the US Constitution is like a Bill of Rights for the States? What do you think? How does the 14th Amendment protect the rights of all US citizens?

The process where the U.S. Supreme Court interprets state laws according to the protections established in the Bill of Rights is called “**selective incorporation**”—the court “selects” cases dealing with specific laws that, if found to violate the federal Bill of Rights, are “incorporated” into the Bill of Rights. This holds true even though the Bill of Rights was intended to protect citizens from the federal government and not the state governments.

1. What does the US Supreme Court do to protect the rights of all US citizens? What do you think the phrase “**selective incorporation**” means?