

= Third Amendment to the United States Constitution =

The Third Amendment (Amendment III) to the United States Constitution places restrictions on the quartering of soldiers in private homes without the owner 's consent , forbidding the practice in peacetime . The amendment is a response to Quartering Acts passed by the British parliament during the buildup to the American Revolutionary War , which had allowed the British Army to lodge soldiers in private residences .

The Third Amendment was introduced in Congress in 1789 by James Madison as a part of the United States Bill of Rights , in response to Anti @-@ Federalist objections to the new Constitution . Congress proposed the amendment to the states on September 28 , 1789 , and by December 15 , 1791 , the necessary three @-@ quarters of the states had ratified it . Secretary of State Thomas Jefferson announced the adoption of the amendment on March 1 , 1792 .

The amendment is one of the least controversial of the Constitution and is rarely litigated , with the American Bar Association calling it the " runt piglet " of the U.S. Constitution . As of 2016 , it has never been the primary basis of a Supreme Court decision .

= = Text = =

The amendment as proposed by Congress in 1789 reads as follows :

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 .

= = Background = =

In 1765 , the British parliament enacted the first of the Quartering Acts , requiring the American colonies to pay the costs of British soldiers serving in the colonies , and requiring that if the local barracks provided insufficient space , that the colonists lodge the troops in alehouses , inns , and livery stables . After the Boston Tea Party , the Quartering Act of 1774 was enacted . One of the Intolerable Acts that pushed the colonies toward revolution , it authorized British troops to be housed wherever necessary , including in private homes . The quartering of troops was cited as one of the colonists ' grievances in the United States Declaration of Independence .

= = Adoption = =

After several years of comparatively weak government under the Articles of Confederation , a Constitutional Convention in Philadelphia proposed a new constitution on September 17 , 1787 , featuring a stronger chief executive and other changes . George Mason , a Constitutional Convention delegate and the drafter of Virginia 's Declaration of Rights , proposed that a bill of rights listing and guaranteeing civil liberties be included . Other delegates ? including future Bill of Rights drafter James Madison ? disagreed , arguing that existing state guarantees of civil liberties were sufficient and that any attempt to enumerate individual rights risked the implication that other , unnamed rights were unprotected . After a brief debate , Mason 's proposal was defeated by a unanimous vote of the state delegations .

For the constitution to be ratified , however , nine of the thirteen states were required to approve it in state conventions . Opposition to ratification (" Anti @-@ Federalism ") was partly based on the Constitution 's lack of adequate guarantees for civil liberties . Supporters of the Constitution in states where popular sentiment was against ratification (including Virginia , Massachusetts , and New York) successfully proposed that their state conventions both ratify the Constitution and call for the addition of a bill of rights . Several state conventions specifically proposed a provision against the quartering of troops in private homes . At the 1788 Virginia Ratifying Convention , Patrick Henry stated , " One of our first complaints , under the former government , was the quartering of troops among us . This was one of the principal reasons for dissolving the connection with Great Britain . Here we may have troops in time of peace . They may be billeted in any manner ? to tyrannize ,

oppress , and crush us . "

= = = Proposal and ratification = = =

In the 1st United States Congress , following the state legislatures ' request , James Madison proposed twenty constitutional amendments based on state bills of rights and English sources such as the Bill of Rights 1689 ; one of these was a prohibition against quartering troops in private homes . Several revisions to the future Third Amendment were proposed in Congress , which chiefly differed in the way in which peace and war were distinguished (including the possibility of a situation , such as unrest , which was neither peace nor war) , and whether the executive or the legislature would have the authority to authorize quartering . However , the amendment ultimately passed Congress almost unchanged and by unanimous vote . Congress reduced Madison 's proposed twenty amendments to twelve , and these were submitted to the states for ratification on September 25 , 1789 .

By the time the Bill of Rights was submitted to the states for ratification , opinions had shifted in both parties . Many Federalists , who had previously opposed a Bill of Rights , now supported the Bill as a means of silencing the Anti @-@ Federalists ' most effective criticism . Many Anti @-@ Federalists , in contrast , now opposed it , realizing that the Bill 's adoption would greatly lessen the chances of a second constitutional convention , which they desired . Anti @-@ Federalists such as Richard Henry Lee also argued that the Bill left the most objectionable portions of the Constitution , such as the federal judiciary and direct taxation , intact .

On November 20 , 1789 , New Jersey ratified eleven of the twelve amendments , rejecting Article II , which regulated Congressional pay raises . On December 19 and 22 , respectively , Maryland and North Carolina ratified all twelve amendments . On January 19 , 25 , and 28 , 1790 , respectively , South Carolina , New Hampshire , and Delaware ratified the Bill , though New Hampshire rejected the amendment on Congressional pay raises , and Delaware rejected Article I , which regulated the size of the House . This brought the total of ratifying states to six of the required ten , but the process stalled in other states : Connecticut and Georgia found a Bill of Rights unnecessary and so refused to ratify , while Massachusetts ratified most of the amendments , but failed to send official notice to the Secretary of State that it had done so .

In February through June of 1790 , New York , Pennsylvania , and Rhode Island ratified eleven of the amendments , though all three rejected the amendment on Congressional pay raises . Virginia initially postponed its debate , but after Vermont was admitted to the Union in 1791 , the total number of states needed for ratification rose to eleven . Vermont ratified on November 3 , 1791 , approving all twelve amendments , and Virginia finally followed on December 15 , 1791 . Secretary of State Thomas Jefferson announced the adoption of the ten successfully ratified amendments on March 1 , 1792 .

= = Judicial interpretation = =

The Third Amendment is among the least cited sections of the U.S. Constitution . In the words of Encyclopedia Britannica , " as the history of the country progressed with little conflict on American soil , the amendment has had little occasion to be invoked . " As of 2015 , no major Supreme Court decision has used the amendment as its primary basis .

The Third Amendment has been invoked in a few instances as helping establish an implicit right to privacy in the Constitution . Justice William O. Douglas used the amendment along with others in the Bill of Rights as a partial basis for the majority decision in *Griswold v. Connecticut* (1965) , which cited the Third Amendment as implying a belief that an individual 's home should be free from agents of the state .

In one of the seven opinions in *Youngstown Sheet & Tube Co. v. Sawyer* (1952) , Justice Robert H. Jackson cited the Third Amendment as providing evidence of the Framers ' intent to constrain executive power even during wartime :

" [t] hat military powers of the Commander in Chief were not to supersede representative

government of internal affairs seems obvious from the Constitution and from elementary American history . Time out of mind , and even now in many parts of the world , a military commander can seize private housing to shelter his troops . Not so , however , in the United States , for the Third Amendment says ... [E] ven in war time , his seizure of needed military housing must be authorized by Congress . "

One of the few times a federal court was asked to invalidate a law or action on Third Amendment grounds was in *Engblom v. Carey* (1982) . In 1979 , prison officials in New York organized a strike ; they were evicted from their prison facility residences , which were reassigned to members of the National Guard who had temporarily taken their place as prison guards . The United States Court of Appeals for the Second Circuit ruled : (1) that the term owner in the Third Amendment includes tenants (paralleling similar cases regarding the Fourth Amendment , governing search and seizure) , (2) National Guard troops count as soldiers for the purposes of the Third Amendment , and (3) that the Third Amendment is incorporated (that is , that it applies to the states) by virtue of the Fourteenth Amendment . The case was remanded to the district court , which dismissed the case on the grounds that state officials could not have been aware of this interpretation .

In the most recent Third Amendment decision handed down by a federal court , on February 2 , 2015 , the United States District Court for the District of Nevada held in *Mitchell v. City of Henderson* that the Third Amendment does not apply to intrusions by municipal police officers since they are not soldiers .

In an earlier case , *United States v. Valenzuela* (1951) , the defendant asked that a federal rent @-@ control law be struck down because it was " the incubator and hatchery of swarms of bureaucrats to be quartered as storm troopers upon the people in violation of Amendment III of the United States Constitution . " The court declined his request . Later , in *Jones v. United States Secretary of Defense* (1972) , Army reservists unsuccessfully cited the Third Amendment as justification for refusing to march in a parade . Similar arguments in a variety of contexts have been denied in other cases .