



## **Clay County Civics Review**

### **Unit 3:**

### **The Bill of Rights and the Constitutional Amendment Process**

**C2.4, C3.5, C3.6**

Review content provided by Florida Joint Center for Citizenship

Review tasks created by Kelly Watt, unless otherwise indicated



## **Clay County Civics Review Packet: Important Notes and Directions**

### **Important Notes:**

#### **1. Limitations:**

This packet was created as a self-paced review tool for 8<sup>th</sup> graders enrolled in M/J United States History & Civics in preparation of the state-mandated Civics EOC. This packet will never replace the value of daily teacher instruction. Because it is designed to be completed independently of regular class instruction, success with this material is heavily dependent upon student effort. Students are encouraged to seek the assistance of their social studies teacher throughout the process. Additional resources, including videos for every benchmark, can be found on Escambia County Schools' EOC review site:

<http://www.ecsd-fl.schoolloop.com/civics>

#### **2. Organization**

The civics curriculum is comprised of 35 tested benchmarks. A benchmark identifies what a student should know and be able to do. Every benchmark contains benchmark clarifications (BC) which indicate how achievement of that benchmark must be demonstrated.

In this packet, students have a set of notes providing background information on every benchmark clarification, courtesy of [Florida Joint Center for Citizenship](#). For each BC, they also have a learning activity. Following completion of the BC tasks, students use what they've learned to complete a single benchmark task.

### **Directions:**

Note: These are standardized directions. Teachers can modify this fit each individual student's needs. Students should be aware of their teacher's expectations for each unit.

1. Review what the benchmark is asking you to know and be able to do.
2. Review the tasks associated with each benchmark clarification (BC).
3. Conduct a close read of the first set of notes with BC1.
4. On a separate sheet of paper (unless otherwise indicated), create your written response to the task associated with BC1. Take time to create a quality response, explaining all of your answers with details from the notes.
5. Repeat steps 2-4 with the remaining BC tasks.
6. Read and complete the benchmark task at the bottom of the page. Your response to these questions should be a minimum of 7 sentences long.
7. Turn in entire packet plus written work to your teacher with your name at the top.

\*\*You are encouraged to seek the assistance of your teacher if you have any questions.



**C2.4: Evaluate the rights contained in the Bill of Rights and other amendments to the Constitution.**

<b>Benchmark Clarification</b>	<b>Task</b>
BC1	Create an image of the Bill of Rights that shows that it's the first 10 amendments to the Constitution. You can use words in your image, but use them sparingly.
BC2	Think of a trick (like an acronym) for remembering the first 5 freedoms from the 1 <sup>st</sup> amendment: Free speech, free press, religion, assembly and petitioning the government. You can put them in any order you want, but your trick/acronym needs to include all five of them.
BC3	Create a graphic organizer showing the three types of rights. In your organizer, include all mentioned in the notes and add a detail to each one explaining what it is.
BC4	Which of the cases listed surprised you the most? Explain what it was about that case as it relates to the right(s) in question.
BC5 (and 3.12 with <i>Tinker</i> and <i>Hazelwood</i> )	In one paragraph EACH, summarize what we learned from the <i>Tinker</i> and <i>Hazelwood</i> Supreme Court cases as they apply to protected rights. You can include information from other benchmark clarifications to support your answer.

**Extra Practice:** [iCivics "Bill of Rights" game](#)

**Benchmark Task:**

Your friend complains to you about learning about the Bill of Rights. "Who cares about learning about a document that was written hundreds of years ago!" she says. Write an argument explaining the importance of learning about the Bill of Rights to your friend. Explain the role the Bill of Rights plays in protecting rights and what can happen when rights are violated. Cite examples from at least three amendments contained in the Bill of Rights.

#### SS.7.C.2.4

Evaluate rights contained in the Bill of Rights and other amendments to the Constitution.

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**SS.7.C.2.4 Benchmark Clarification 1:** Students will recognize that the Bill of Rights comprises the first ten amendments to the U.S. Constitution.

The **Bill of Rights** includes the first ten **amendments** to the U.S. Constitution. The Bill of Rights was added to the U.S. Constitution in 1791, two years after the U.S. Constitution was **ratified**. These amendments define individual freedoms, rights of those accused of a crime, and protections from the federal government.

**amendments** - changes to the U.S. Constitution

**Bill of Rights** - the first ten amendments to the U.S. Constitution

**ratify** - to confirm by expressing consent or approval

#### Sources:

“Featured Cases.” *Landmark Cases of the U.S. Supreme Court*. Street Law, n.d. Web. 10 March 2014.

<<http://www.streetlaw.org/en/landmark.aspx,%20oyez.org>>

“You’ve Got Rights.” iCivics.org, n.d. Web. 10 March 2014.

<<https://www.icivics.org/teachers/lessonplans/youve-got-rights>>



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#### SS.7.C.2.4

*Evaluate rights contained in the Bill of Rights and other amendments to the Constitution.*

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**SS.7.C.2.4 Benchmark Clarification 2:** Students will recognize the five freedoms protected by the First Amendment.

The First Amendment includes five individual freedoms. Those freedoms are the right to free speech, press, religious exercise, peaceable assembly, and petitioning the government. Freedom of speech allows individuals to express their opinions. This includes speech that may criticize the government or government officials. Freedom of the press allows individuals to publish or print information. Freedom of religious exercise allows individuals to practice their religion freely or to choose not to practice a religion at all. Freedom to peaceably assemble is the ability to peacefully gather in groups. These groups can include those meeting to publicly demonstrate ideas or beliefs, such as a protest. Freedom to petition allows individuals to express their concerns with the government. A petition may formally ask the government for a policy change and may include the signatures of those who support those changes.

#### **Sources:**

“Featured Cases.” *Landmark Cases of the U.S. Supreme Court*. Street Law, n.d. Web. 10 March 2014.

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#### SS.7.C.2.4

*Evaluate rights contained in the Bill of Rights and other amendments to the Constitution.*

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**SS.7.C.2.4 Benchmark Clarification 3:** Students will evaluate how the Bill of Rights influences individual actions and social interactions.

There are three categories of rights, freedoms and protections listed in the **Bill of Rights**. The first are individual freedoms as stated in the First Amendment: **free speech, press, religious exercise, peaceable assembly, and petition**.

The second category is the **rights of those accused** of a crime. **Search and seizure** occurs when police believe that a crime has been committed. Police conduct a search to seize (collect) evidence that may have to do with the crime. Protection from unreasonable search and seizure means that police must have a reason and in most cases a warrant from a judge to search a person's personal property, home or body that may include their car, home, locker, backpack or purse belonging to the accused person. Rights of those accused of a crime also include the right to **due process of law**. Due process means that one cannot have their life, liberty or property taken without appropriate legal procedures and protections. **Pleading the Fifth**, or protection against **self-incrimination**, means that those accused of crimes may refuse to testify against themselves in a court of law. Pleading the Fifth prevents anything that a person may say to be used as evidence against them to convict them of a crime. **Double jeopardy** is also protected by the Bill of Rights. If evidence is found after an accused person is found "not guilty" of a crime, that person cannot be brought back to stand trial for the same crime. The right to legal counsel (lawyer) allows all people accused of a crime to have legal representation in court. **Trial by jury** is an additional right protected by the Bill of Rights. Protection of trial by jury means that a judge and **jury** must decide the issue based on the facts and evidence of a criminal case. Further, persons accused of a crime are protected against **cruel and unusual punishment** which may include torture or other forms of punishment considered too harsh for the crime committed. The **constitutionality** of the death penalty has long been questioned as to whether it should be considered cruel and unusual punishment.

The third category is protection from government abuse of power. Such matters may deal with **property rights**, voting rights or the right to protect oneself. For example, the **right to bear arms** is included in this category. The right to bear arms means that one is able to own and carry weapons, such as owning and carrying a gun for self-protection. **Eminent domain** allows the government to take private property (property owned by people organizations or companies) for public use although the owner must be compensated (paid) fairly for it. A good example of this is if a road needs to be expanded and someone's property is in the path of the road. The government must pay the owner for the land that will be taken by the government for expanding the road. The Ninth Amendment gives the people unenumerated rights or rights that are not be listed in the Constitution. Unenumerated rights include **privacy rights** which, while not listed in the Constitution, belong to the people. Equal protection under the law guarantees citizens protection from states treating them in a way that denies them their rights under federal law. The 15th, 19th, 24th and 26th Amendments each deal with **suffrage**. Each amendment deals with a different aspect of suffrage; the 15th Amendment protects the voting rights of African-American men, the 19th Amendment



guarantees women the right to vote in all federal, state and local elections and the 24th Amendment protects citizens from having to pay a poll tax as a condition of voting. The 26th Amendment guarantees citizens who are at least 18 years old the right to vote.

**Bill of Rights** - the first ten amendments to the U.S. Constitution

**constitutionality** - whether or not something is legal under the U.S. Constitution

**cruel & unusual punishment** - punishment prohibited by the Eighth Amendment to the U.S. Constitution; includes torture or other forms of punishment too severe for the crime committed

**double jeopardy** - the prosecution of a defendant for a criminal offense for which he has already been tried; prohibited in the Fifth Amendment to the U. S. Constitution

**due process of law** - a system of justice according to established rules and principles; based on the principle in the Fifth Amendment that a person cannot be deprived of life, liberty, or property without appropriate legal procedures and protections

**eminent domain** - the right of the government to take private property for public use; the Fifth Amendment requires that fair compensation be made when property is taken under eminent domain

**freedom of peaceable assembly** - the right to hold meetings and form groups without interference by the government; guaranteed in the First Amendment

**freedom of press** - the right of the press to write and print news and information free from government involvement; guaranteed in the First Amendment

**freedom of religious exercise** - the right for citizens to practice the religion of their choice without government involvement; guaranteed in the First Amendment

**freedom of speech** - the right for citizens to speak freely without government involvement; guaranteed in the First Amendment

**freedom to petition the government** - the freedom for citizens to engage in any nonviolent, legal means of encouraging or disapproving government action, directed to the judicial, executive or legislative branch; guaranteed in the First Amendment

**jury** - a group of citizens sworn to give a true verdict according to the evidence presented in a court of law

**pleading the fifth** - the act of a person refusing to testify under oath in a court of law on the grounds that the answers could be used as evidence against him to convict him of a criminal offense

**property rights** - the right to own property; mentioned in the Fifth and Fourteenth Amendments

**right to bear arms** - the idea in the Second Amendment that people have an individual right to own and carry weapons

**rights of the accused** - the rights included in the Fourth, Fifth and Sixth Amendments: protection from unreasonable search and seizure, double jeopardy, and self-incrimination, the right to due process, right to a speedy and public trial, trial by jury, the right to be informed of criminal charges, right to be confronted by adverse witnesses, right to an attorney, protection from self-incrimination

**search & seizure** - the process by which police or other authorities who suspect that a crime has been committed do a search of a person's property and collect any relevant evidence to the crime; protection from illegal search and seizure is in the Fourth Amendment

**self-incrimination** - the right in the Fifth Amendment that protects a person from being forced to reveal to the police, prosecutor, judge, or jury any information that might subject him or her to criminal prosecution

**suffrage** - the right to vote

**trial by jury** - a trial in which the issue is determined by a judge and a jury, usually with 12 members, whose job is to determine facts and make a judgment of guilty or not guilty; protected in the Sixth Amendment

#### Sources:

"Featured Cases." *Landmark Cases of the U.S. Supreme Court*. Street Law, n.d. Web. 10 March 2014.

<<http://www.streetlaw.org/en/landmark.aspx,%20oyez.org>>

"You've Got Rights." iCivics.org, n.d. Web. 10 March 2014.

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**SS.7.C.2.4**

Evaluate rights contained in the Bill of Rights and other amendments to the Constitution.

**SS.7.C.2.4 Benchmark Clarification 4:** Students will use scenarios to identify rights protected by the Bill of Rights.

The rights contained in the Bill of Rights have been evaluated by the U.S. Supreme Court based on cases that have come before the Court. Since 1803, the U.S. Supreme Court has had the power to declare federal, state and local laws **unconstitutional**. However, the U.S. Supreme Court does not evaluate laws unless a challenge to the constitutionality of those laws is brought before the Court and the Court has agreed to hear the case.

Below are some scenarios that the U.S. Supreme Court has considered that deal with rights protected by the Bill of Rights.

<b>Case Name</b>	<b>Right Protected by the Bill of Rights being Challenged</b>	<b>Scenario</b>
<i>Speech Yates v. U.S.</i> (1957)	<b>Speech</b>	The First Amendment protects radical speech if it does not present a “clear and present danger”.
<i>Wisconsin v. Yoder</i> (1972)	<b>Free exercise of religion</b>	A Wisconsin law requiring that students attend school until age 16 violates the free exercise freedoms of the Amish.
<i>New York Times v. Sullivan</i> (1964)	<b>Press</b>	The first Amendment protects the publication of all statements, including false statements, about the behavior of public officials except when the statements are made knowing that they are false.
<i>Cox v. Louisiana</i> (1964)	<b>Peaceable assembly</b>	The First Amendment protects peaceable assembly even when the demonstration may cause violence.
<i>Brown v. Glines</i> (1980)	<b>Petition the government</b>	Military staff may be required to seek approval of military base commanders before sending petitions to members of Congress.
<i>Furman v. Georgia</i> (1972)	<b>Cruel and unusual punishment</b>	The death penalty may not be imposed in a racially discriminatory manner such that a higher percentage of African-American defendants are sentenced to death compared with the percentage of white defendants committing the same crimes.
<i>Palko v. Connecticut</i> (1937)	<b>Double jeopardy</b>	A person convicted of second-degree murder may be later tried for first degree murder. Protection against double jeopardy was not found to be a fundamental right in this case.
<i>Miranda v. Arizona</i> (1966)	<b>Self-incrimination/pleading the fifth</b>	Police who question individuals without notifying them of their right to counsel and their protection against self-incrimination are violating those persons’ Fifth Amendment right.



Case Name	Right Protected by the Bill of Rights being Challenged	Scenario
<i>Mapp v. Ohio</i> (1961)	<b>Unreasonable search and seizure</b>	Evidence obtained through a search in violation of the Fourth Amendment cannot be admitted in a state criminal proceeding.

**cruel & unusual punishment** - punishment prohibited by the Eighth Amendment to the U.S. Constitution; includes torture or other forms of punishment too severe for the crime committed

**double jeopardy** - the prosecution of a defendant for a criminal offense for which he has already been tried; prohibited in the Fifth Amendment to the U. S. Constitution

**freedom of peaceable assembly** - the right to hold meetings and form groups without interference by the government; guaranteed in the First Amendment

**freedom of press** - the right of the press to write and print news and information free from government involvement; guaranteed in the First Amendment

**freedom of religious exercise** - the right for citizens to practice the religion of their choice without government involvement; guaranteed in the First Amendment

**freedom of speech** - the right for citizens to speak freely without government involvement; guaranteed in the First Amendment

**freedom to petition the government** - the freedom for citizens to engage in any nonviolent, legal means of encouraging or disapproving government action, directed to the judicial, executive or legislative branch; guaranteed in the First Amendment

**pleading the fifth** - the act of a person refusing to testify under oath in a court of law on the grounds that the answers could be used as evidence against him to convict him of a criminal offense

**search & seizure** - the process by which police or other authorities who suspect that a crime has been committed do a search of a person's property and collect any relevant evidence to the crime; protection from illegal search and seizure is in the Fourth Amendment

**self-incrimination** - the right in the Fifth Amendment that protects a person from being forced to reveal to the police, prosecutor, judge, or jury any information that might subject him or her to criminal prosecution

**unconstitutional** - not in agreement with the U.S Constitution

**Sources:**

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**SS.7.C.2.4 Benchmark Clarification 5:** Students will use scenarios to recognize violations of the Bill of Rights or other constitutional amendments.

The wording of the **Bill of Rights** is not entirely clear. What is “speech”? “What is the freedom of religious exercise”? What does it mean to guarantee the right to counsel? The U.S. Supreme Court has been asked to evaluate situations where individuals have questioned whether their rights guaranteed under the U.S. Constitution have been violated (abused) by a federal, state or local law or other government regulation. Through evaluating these situations, the U.S. Supreme Court has interpreted what the Bill of Rights and other amendments to the Constitution mean. Through these interpretations, the U.S. Supreme Court has recognized violations (abuses) of citizen and individual protections. And, these decisions have established **precedents** for future case decisions.

One key example is ***Tinker v. Des Moines*** (1969). *Tinker v. Des Moines* is a case that interpreted the First Amendment right to free speech to include “**symbolic speech**”. John and Mary Beth Tinker, who attended public school in Des Moines, Iowa, wanted to wear black armbands to school to protest the Vietnam War in 1965. The school did not allow students to wear black armbands, and the Tinkers were suspended. Their parents sued and the case was eventually heard by the U.S. Supreme Court. The Court decided that the wearing of black armbands was a form of “symbolic speech” or “political speech” that was protected by the “free speech” right in the First Amendment. The U.S. Supreme Court stated that denying students the right to wear the black armbands violated their free speech rights under the Bill of Rights.

***Miranda v. Arizona*** (1966) dealt with protection from self-incrimination or the right to **plead the fifth**. The police did not tell Miranda that he did not have to say anything to police when they questioned him. He confessed to a crime and the confession was used against him in court. The U.S. Supreme Court stated that his confession could not be used against him in court because the police did not inform him of his protection from self-incrimination. As a result of this case, police must inform a person of their rights if they are arrested for committing a crime. These rights are now called Miranda Rights.

**Bill of Rights** - the first ten amendments of the U.S. Constitution

***Miranda v. Arizona*** - U.S. Supreme Court cases that upheld the Fifth Amendment protection from self-incrimination

**pleading the fifth** - the act of a person refusing to testify under oath in a court of law on the grounds that the answers could be used as evidence against him to convict him of a criminal offense

**precedent** - a court decision in an earlier case with facts and legal issues similar to those in a case currently before a court

**self incrimination** - the right in the Fifth Amendment that protects a person from being forced to reveal to the police, prosecutor, judge, or jury any information that might subject him or her to criminal prosecution

**symbolic speech** - action that expresses an idea

***Tinker v. Des Moines*** - U.S. Supreme Court case that upheld a student’s First Amendment right to engage in symbolic speech in school

#### Sources:

“Featured Cases.” *Landmark Cases of the U.S. Supreme Court*. Street Law, n.d. Web. 10 March 2014.

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**C3.5: Explain the Constitutional amendment process**

<b>Benchmark Clarification</b>	<b>Task</b>
BC1	What is a good way of remembering what “propose” and “ratify” mean? This can be a picture, a phrase, a connection to something else, or some other creative idea you have.
BC2	Draw a picture showing the groups that are involved in the two major steps of the amendment process: 1)proposing an amendment and, 2) ratifying the proposed amendments
BC3	Why do they make it so difficult to amend the Constitution? What happens if there’s a law in place that goes against a brand new amendment?
BC4	Why does it take so many states (3/4 of 50 is about 38) to ratify an amendment? Is this a good idea or bad idea? Explain your reasons.

**Extra Practice:** [Amendment process Scholastic handout](#)

**Benchmark Task:**

In one paragraph, summarize how an idea goes from just a “good idea” to a new amendment to our US Constitution. Be sure to use the words “propose” and “ratify” as well as all necessary details in terms of how much support is needed from Congress and state legislatures for this idea to continue to move towards ratification.

### SS.7.C.3.5

Explain the constitutional amendment process.

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**SS.7.C.3.5 Benchmark Clarification 1:** Students will recognize the methods used to propose and ratify amendments to the U.S. Constitution.

Article V (5) of the United States Constitution describes two methods for **proposing amendments** and two methods for **ratifying** amendments. The Founding Fathers wanted to make certain that there was a process in place so that the Constitution could remain a “living document” that was able to change with the times if needed.

There are two methods for proposing amendments to the Constitution.

1. Two-thirds (2/3) of both houses of Congress agree to propose the amendment
2. Two-thirds (2/3) of the states are represented and join in a national convention to vote to propose the amendment.

Both of these methods require two-thirds, which is a “supermajority” (an amount that is more than half). This is important because an amendment to the Constitution would change the laws for the entire nation, and having a majority in support of that change is a part of the democratic processes of government. Once an amendment is added to the Constitution, laws that are found to be in conflict with the amendment might be found **unconstitutional** by the U.S. Supreme Court. Once the amendment is proposed by either method described above, the amendment then has to be ratified (approved) by one of two specific methods, in order for the amendment to be added to the U.S. Constitution.

There are two methods for ratifying proposed amendments:

1. Three-fourths (3/4) of the state legislatures vote to ratify the amendment.
2. Three-fourths (3/4) of the states are represented in a national ratifying convention to vote to ratify the amendment.

**amendments** - changes to the U.S. Constitution

**propose** - to make a suggestion

**ratify** - to confirm by expressing consent or approval

**unconstitutional** - not in agreement with the U.S Constitution



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**SS.7.C.3.5**

*Explain the constitutional amendment process.*

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**SS.7.C.3.5 Benchmark Clarification 2:** Students will be able to identify the correct sequence of each amendment process.

<b>Step 1: Proposal (Two ways)</b>	<b>Step 2: Ratification (approval) by the States (Two ways)</b>
1. Vote of two-thirds (2/3) of members of both houses vote to propose the amendment.	1. Three-fourths (3/4) of all state legislatures have vote on the proposed amendment.
<b>OR</b>	<b>OR</b>
2. A national convention is called by two-thirds (2/3) of the state legislatures where they vote to propose an amendment (all but the 21 <sup>st</sup> Amendment has been ratified with this method).	2. Three-fourths (3/4) of the states join in ratifying conventions to vote on the proposed amendment (only the 21st Amendment has been ratified like this).



### SS.7.C.3.5

Explain the constitutional amendment process.

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**SS.7.C.3.5 Benchmark Clarification 3:** Students will identify the importance of a formal amendment process.

Article V (5) of the United States Constitution describes the two methods for **proposing** amendments and the two methods for **ratifying amendments**. The Founding Fathers wanted to make certain that there was a process in place so that the Constitution could remain a “living document” that was able to change with the times. The Founding Fathers intentionally created a process that is rather difficult – if the process were too simple, the Constitution would change far more often than it should. Once an amendment is ratified, it is part of the Constitution unless there is another amendment to reverse that amendment (such as with the 18<sup>th</sup> Amendment (outlawing alcohol) which was reversed with the 21<sup>st</sup> Amendment). And, the U.S. Supreme Court interprets laws to determine if they are constitutional, or not, including amendments. A law that conflicts with an amendment may be found to be **unconstitutional**. Article V explains the two ways in which an amendment can be proposed and the two ways in which an amendment can be ratified. If a proposed amendment does not follow the path to ratification, it cannot be added to the Constitution.

**amendments** - changes to the U.S. Constitution

**propose** - to make a suggestion

**ratify** - to confirm by expressing consent or approval

**unconstitutional** - not in agreement with the U.S Constitution



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### SS.7.C.3.5

Explain the constitutional amendment process.

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**SS.7.C.3.5 Benchmark Clarification 4:** Students will recognize the significance of the difficulty of formally amending the U.S. Constitution.

Article V (5) of the United States Constitution describes the two methods for **proposing** amendments and the two methods for **ratifying amendments**. The Founding Fathers wanted to make certain that there was a process in place so that the Constitution could remain a “living document” that was able to change with the times.

The Founding Fathers intentionally created a process that is rather difficult – if the process were too simple, the Constitution would change far more often than it should. If the process were too rigid, the Constitution would be stuck in 1787, when the Constitution was written.

The large percentage of votes needed to ratify amendments speaks to the difficulty of formally amending the U.S. Constitution. Two-thirds (2/3) of each house of Congress or the state legislatures is required to propose an amendment which means that only elected officials may vote to propose an amendment. And, getting a supermajority (more than 50%) of elected officials to agree to propose an amendment speaks to the difficulty of proposing amendments. Three-fourths (3/4) of the state legislatures must vote to ratify an amendment unless three-fourths (3/4) of the states join in a ratifying convention to vote to ratify an amendment. Either way, like proposing an amendment, ratifying an amendment requires a supermajority of elected officials (or persons chosen by elected officials) to pass. Elected officials know that they are being monitored by the media, individuals and interest groups when they vote on proposing and ratifying amendments.

Keep in mind that once an amendment is added to the Constitution, it becomes a part of it. No federal law or state law can go against that amendment because it is the Constitution.

**amendments** - changes to the U.S. Constitution

**propose** - to make a suggestion

**ratify** - to confirm by expressing consent or approval



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### C3.6: Evaluate the Constitutional rights and their impact on individuals and society

Benchmark Clarification	Task
BC1	Which amendment do you think is the MOST important in shaping our social, political and economic systems: the First, Fifth or Fourteenth amendment?
BC2	How is our economy dependent upon individual rights?
BC3	Explain what “eminent domain” is as it applies to <i>Kelo vs. City of New London</i>
BC4	What is the relationship between individual rights and public interest?

**Extra Practice:** [“Do you think the rights of the individual are more important than national safety?”](#)  
online debate

#### **Benchmark Task:**

Read the summary of Supreme Court case *Korematsu vs. US*. Highlight any actions that the US took that could be considered a violation of one’s Constitutional rights.

In times of war, governments often must balance the needs of national security with the civil rights of its citizens. In your opinion, did the Japanese internment order find the right balance between these competing values? Explain your reasons.

### SS.7.C.3.6

*Evaluate constitutional rights and their impact on individuals and society.*

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**SS.7.C.3.6 Benchmark Clarification 1:** Students will recognize how individual rights shape participation in the social, political, and economic systems.

The **Bill of Rights** protects individual rights. For example, the **First Amendment** includes the personal rights or personal freedoms that include religious exercise, peaceable assembly, speech, press and petition. Freedom of peaceable assembly is the right to hold meetings and form groups without interference by the government. An example of political rights is the freedom to petition the government to fix problems.

The **Fifth Amendment** protects citizens' life, liberty, and **property rights** from inappropriate federal government action while the **Fourteenth Amendment** protects citizens' life, liberty and property rights from inappropriate state government action. Property rights include the right to own, produce, trade, purchase or use property. Economic rights include the right to buy, sell, produce, trade, purchase or use goods and services. Economic rights also include rights related to employment.

The Fifth Amendment protects individuals from the federal government. The Fourteenth Amendment protects individuals from the state governments. Some of these rights and protections include protection from illegal **search and seizure**, protection from **cruel and unusual punishment**, and the right not to be a witness against oneself, and the right to a jury trial, legal counsel, and **due process**.

**Bill of Rights** - the first ten amendments to the U.S. Constitution

**cruel and unusual punishment** - punishment prohibited by the Eighth Amendment to the U.S. Constitution; includes torture or other forms of punishment too severe for the crime committed

**due process** - the idea that people have the right to fair and reasonable laws, and that government leaders and officials have to follow rules when enforcing laws and treat all people in the same way

**Fifth Amendment** - an amendment to the U.S. Constitution that provides protections to a person accused of a crime, including the right of due process.

**First Amendment** - an amendment to the U.S. Constitution prohibiting Congress from establishing a religion, and from interfering with freedom of religious exercise, press, speech, assembly, or petition

**Fourteenth Amendment** - an amendment to the U.S. Constitution that defines citizenship, grants citizenship to former slaves and defines voters as males at least 21 year of age

**property rights** - the right to own property; mentioned in the Fifth and Fourteenth Amendments

**search and seizure** - the process by which police or other authorities who suspect that a crime has been committed do a search of a person's property and collect any relevant evidence to the crime; protection from illegal search and seizure is in the Fourth Amendment



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### SS.7.C.3.6

*Evaluate constitutional rights and their impact on individuals and society.*

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**SS.7.C.3.6 Benchmark Clarification 2:** Students will recognize how the social, political, and economic systems in the United States are dependent upon individual rights.

Social, political, and economic systems rely on **individual rights** and freedoms. In order for the government to represent the people well, the people's right to express their opinion on issues and concerns to the government needs to be protected. Freedom of the press would not be effective if there were no freedom of speech because the press gives the people a voice in expressing their concerns about government.

The economic system also depends on individual freedoms such as the freedom of individuals to build businesses and employ workers. One of the biggest challenges that citizens face is balancing the protection of individual rights and the need to protect society. **Eminent domain** gives government the right to take private property from individuals in order to benefit the public interest. Property taken from individuals under eminent domain requires a fair payment as stated in the **Fifth Amendment**.

**eminent domain** - the right of the government to take private property for public use; the Fifth Amendment requires that fair compensation be made when property is taken under eminent domain

**Fifth Amendment** - an amendment to the U.S. Constitution that provides protections to a person accused of a crime, including the right of due process.

**individual rights** - rights guaranteed or belonging to a person



### SS.7.C.3.6

Evaluate constitutional rights and their impact on individuals and society.

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**SS.7.C.3.6 Benchmark Clarification 3:** Students will use scenarios to recognize and/or evaluate options for exercising constitutional rights.

The U.S. Supreme Court case *Kelo v. City of New London* (2005) focused on **property rights**. The city of New London, Connecticut wanted to use **eminent domain** to take private property for development of businesses. The city believed it was correct in taking the land because the public would benefit from **economic freedom** and the money earned from taxes. The Supreme Court upheld the city's right of eminent domain and the city developed the land. The Court decided that, because the businesses would collect sales taxes and pay property taxes, the taking of the property from the owner was justified because the businesses would contribute to the **public good** by paying taxes.

In another event that took place in 1965, John Lewis and Hosea Williams committed **civil disobedience** by refusing to obey certain laws as a form of political protest. They were part of a larger group assembling and marching from Selma, Alabama to Montgomery, Alabama to raise awareness about voting **discrimination** against African-Americans. The Alabama State Police gave the protesters a two-minute warning to break up the group. Before the two minutes were up the police attacked the protesters.

In another case, President Franklin Roosevelt issued Executive Order 9066 during World War II. This order forced thousands of Japanese Americans into **internment** camps. **Forced internment** is the confinement or detainment of people especially during wartime. Fred Korematsu, an American citizen of Japanese descent, believed that he was discriminated against because of his Japanese heritage (Korematsu was a U.S. citizen by birth). Korematsu also believed that the government did not have the right to force U.S. citizens into internment camps. In *Korematsu v. United States* (1944), the Supreme Court decided that the government's view that the action was reasonable to protect society during wartime.

**civil disobedience** - the refusal to obey certain laws as a form of political protest

**discrimination** - unfair treatment

**economic freedom** - the freedom to produce, trade, or use any goods or services without use of force, fraud, or theft

**eminent domain** - the right of the government to take private property for public use; the Fifth Amendment requires that fair compensation be made when property is taken under eminent domain

**forced internment** - the confinement of a group of people, especially during a war

**internment** - to detain or jail

**property rights** - the right to own property; mentioned in the Fifth and Fourteenth Amendments

**public good** - beliefs or actions that are seen as a benefit to the larger community rather than individual interests, also known as the common good



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**SS.7.C.3.6**

*Evaluate constitutional rights and their impact on individuals and society.*

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**SS.7.C.3.6 Benchmark Clarification 4:** Students will evaluate the impact of the government upholding and/or limiting individual constitutional rights.

The **Founding Fathers** knew that the needs of the public could change over time. This knowledge gave the government the ability to keep or limit **individual rights**. The government's job is to protect both the Constitution and **public interest** even though there are some who argue that protecting the public interest may result in the loss of individual rights and others who argue that protecting individual rights may result in a loss to the public interest.

**Founding Fathers** - representatives from each of the 13 colonies who decided to meet and write a document stating their reasons for separation and independence from England

**individual rights** - rights guaranteed or belonging to a person

**public interest** - common benefit, the general benefit of the public



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## ***Korematsu vs. U.S.*** (article for use with benchmark C24 task)

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After Pearl Harbor was bombed in December 1941, the American military became concerned about an attack from the Japanese on the mainland of the United States. There were many people of Japanese descent living on the West Coast at the time and the American government was worried that they might help the enemy, Japan.

At the time there was no proven case of espionage or sabotage on the part of Japanese or Japanese Americans in the United States. Still, in February 1942, General DeWitt, the commanding officer of the Western Defense Command, recommended that “Japanese and other subversive persons” be removed from the West Coast. President Franklin D. Roosevelt soon signed Executive order 9066, which allowed military authorities to enact curfews, forbid people from certain areas, and to move them to new areas. Congress then passed a law imposing penalties for people who ignored these orders. Many Japanese and Japanese Americans on the West Coast were moved to camps farther inland. This was called internment. Japanese Americans were forced to sell their homes and personal belongings and to move to the camps. They were required to live in very basic camps or barracks, many of which did not have running water or cooking facilities.

Fred Korematsu was a U.S. citizen. He was born in America of Japanese parents. He tried to serve in the United States military, but was rejected for health reasons. Later, he worked in a shipyard. When the Japanese internment began in California, Korematsu moved to another town. He also had some facial surgery and claimed to be Mexican-American. He was later arrested and convicted of violating an order that banned people of Japanese descent from the area of San Leandro, California, which had a large military facility.

Korematsu challenged his conviction in the courts. He said that Congress, the President, and the military authorities did not have the power to issue the relocation orders. He also said that because the order only applied to people of Japanese descent, the government was discriminating against him on the basis of race.

The government argued that the evacuation of all Japanese Americans was necessary to protect the country because there was evidence that some were working for the Japanese government. The government said that because there was no way to tell who was loyal and who was not, it had to treat all people with Japanese ancestors as though they were disloyal.

The federal appeals court agreed with the government. Korematsu appealed this decision and the case came before the U.S. Supreme Court.