

Warm Up: 11/1-2

WARM UP ACTIVITY

- Define Civil Liberties & Civil Rights.
 - What is the primary difference?

- How has the US constitution changed over time to increase protections of civil liberties & civil rights?
 - Provide 1-2 specific examples from your understanding.

Grab a computer so we can get our Albert.io accounts set up!

LESSON ESSENTIAL QUESTIONS

1. What are civil liberties?

2. What are civil rights?

3. How have the courts interpreted the constitution to expand protections of civil liberties & civil rights?

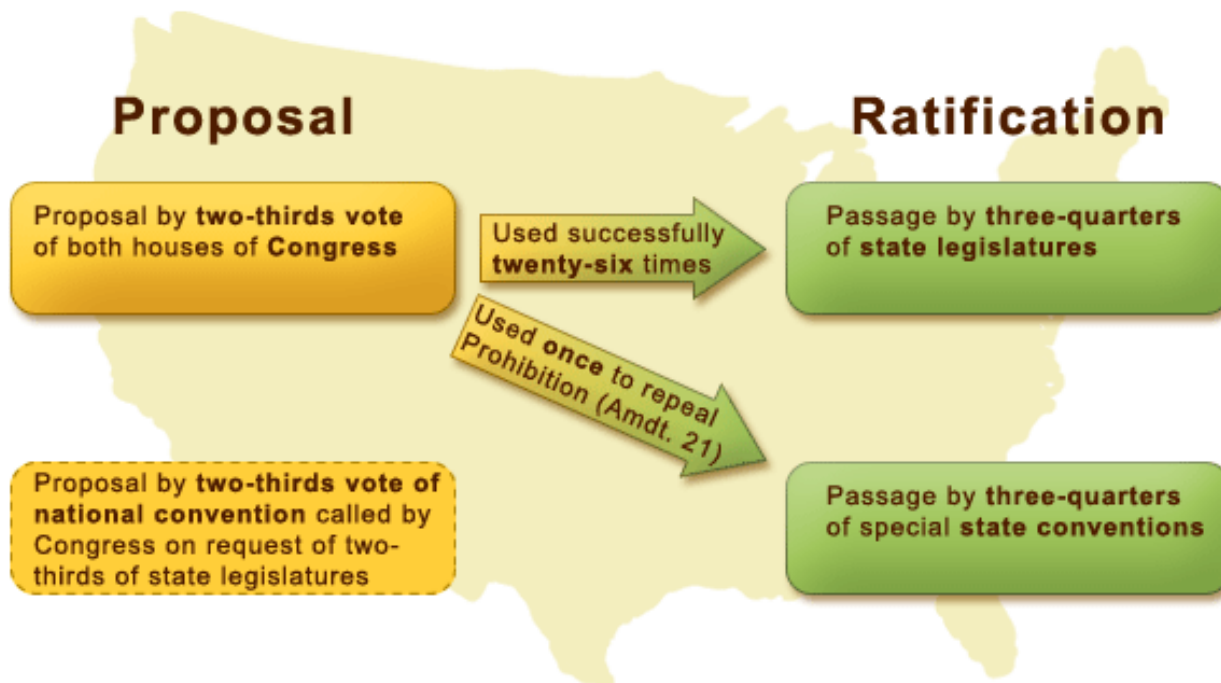
4. What is selective incorporation & how has it expanded civil liberties & rights?

November 1-7, 2017

Civil Liberties, Civil Rights & the Constitution

Constitutional Amendments

- A constitutional amendment refers to the modification of the constitution of a nation or state.
 - In many jurisdictions the text of the constitution itself is altered; in others the text is not changed, but the amendments change its effect.



Civil Liberties & Civil Rights

■ Civil Liberties

- Legal constitutional protections against the government
- **Bill of Rights**
 - First 10 amendments, protecting the basic liberties of citizens

■ Civil Rights

- Policies designed to protect people against arbitrary or discriminatory treatment by government officials or individuals

Scope of the Federal Government and the Constitution

- **Scope of Government**
 - Growth of the Federal Government over time
 - Spatial and demographic growth
 - More interconnected with other countries
 - Federal government has needed to change
 - Modify Constitutional procedures & powers
 - Redefine/Re-establish its role in securing/protecting citizens' livelihoods

Categorizing Constitutional Amendments

- A constitutional amendment refers to the modification of the constitution of a nation or state.
 - In many jurisdictions the text of the constitution itself is altered; in others the text is not changed, but the amendments change its effect.
- Working with a partner, look through the constitutional amendments & categorize each amendment into one of the following categories:
 - Civil Liberties
 - Civil Rights
 - Scope of Government

Categorizing the Amendments

Civil Liberties

- Bill of Rights (1-10)
- Amend. 17
- Amend. 21
- Amend. 23
- Amend. 26

Civil Rights

- Amend. 13
- Amend. 14
- Amend. 15
- Amend. 19
- Amend. 24

Scope of Fed. Govt.

- Amend. 11
- Amend. 12
- Amend. 16
- Amend. 18
- Amend. 20
- Amend. 25
- Amend. 27

Redefining the role of the Bill of Rights

- The Bill of Rights and the States
 - Written to restrict the national government
 - “Congress shall make no law...”
 - *Barron v. Baltimore* (1833)
- Incorporation Doctrine
 - Supreme Court has nationalized the Bill of Rights by making most of its provisions applicable to state and local governments
 - **14th Amendment**- “States shall make no law...”
 - First Amendment protection of speech first incorporated to states in *Gitlow v. New York* (1925)

The 14th Amendment and Selective Incorporation

■ 14th Amendment (1868)

- All persons born in or naturalized in US are entitled to all liberties and rights of citizens
- “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 14th Amendment and Selective Incorporation

- **14th Amendment (1868)**
 - Selective Incorporation- ensures states cannot enact laws that take away the constitutional rights of American citizens that are enshrined in the Bill of Rights
 - Supreme Court hears cases that demonstrate this violation, and selectively set precedents to ensure that states do not continue to violate these rights and liberties

Barron v. Baltimore (1833)

Background:

The case began with a lawsuit filed by John Barron against the city of Baltimore, claiming that the city had deprived him of his property in violation of the Fifth Amendment, which provides that the government may not take private property without just compensation. He alleged that the city ruined his busy wharf in Baltimore Harbor by depositing around the wharf sand and earth cleared from a road construction project that made the waters around the wharf too shallow to dock most vessels. The state court found that the city had unconstitutionally deprived Barron of private property and awarded him \$4,500 in damages, to be paid by the city in compensation. An appellate court then reversed this award. Barron appealed to the Supreme Court, which reviewed the case in 1833.

Issue: Does the Fifth Amendment of the Constitution apply to local and state governments?

Court Ruling: Barron had no claim against the state under the Bill of Rights because the Bill of Rights does not apply to the states. It is a provision of the Constitution of the United States, not for the government of the individual states: "the Fifth Amendment must be understood as restricting the power of the general government, not as applicable to the states."

Precedent: Liberties/Rights secured by the US Bill of Rights only protect citizens from the US Government.

Gitlow v. New York (1925): Research with a Partner

Background:

Gitlow, a socialist, was arrested for distributing copies of a "left-wing manifesto" that called for the establishment of socialism through strikes and class action of any form. Gitlow was convicted under a state criminal anarchy law, which punished advocating the overthrow of the government by force. At his trial, Gitlow argued that since there was no resulting action flowing from the manifesto's publication, the statute penalized utterances without propensity to incitement of concrete action. The New York courts had decided that anyone who advocated the doctrine of violent revolution violated the law.

Issue: Did the New York statute prohibiting such activity deprive the Petitioner (Gitlow) of his First Amendment constitutional right to freedom of expression?

Court Ruling: Supreme Court upheld New York statute, stating that since Gitlow was spreading hateful and anti-government information, he was encouraging potential crime and violence against the state. **However, states do not have the right to restrict 1st Amendment rights unless it presents a clear and present danger to public interest.**

Precedent: Based upon Selective Incorporation, rights and liberties protected by the Constitution extend to State and local governments. All levels of government have the right to restrict these rights if they present a clear and present danger to public.