

Texas v. Johnson / The Amendment Process (●●●)

Directions:

1. Read the **Background** section below and answer the corresponding **Questions to Consider** (page 2).
 2. Complete the **Amendment Process** section (page 2) and answer the corresponding **Questions to Consider** (page 3).
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Background

In 1984, Gregory Lee Johnson was arrested for burning the U.S. flag at the Republican National Convention in Texas. He was charged with violating a Texas law that banned the desecration of the flag in an offensive manner. In 1989, the U.S. Supreme Court heard *Texas v. Johnson* and found that Johnson’s burning of the flag was a form of symbolic speech that is protected by the First Amendment. The Court mentioned the importance of protecting free speech, especially speech that is unpopular or offensive to others. It said, “If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.”

People who felt strongly about protecting the flag convinced Congress to pass the Flag Protection Act of 1989. This federal law made it a crime to knowingly mutilate, deface, physically defile, burn, or trample a U.S. flag. In 1990, the U.S. Supreme Court declared this law unconstitutional in the case of *United States v. Eichman*.

Checks and Balances

The U.S. government has a system of checks and balances. This system allows various branches of government to “check” the actions of the other branches. For instance, when Congress passes a law, the president can veto the law, or the Supreme Court can declare the law unconstitutional. If the Supreme Court finds a law unconstitutional, but people agree with the law, the Constitution can be amended or changed so that the law becomes constitutional. However, this has only happened 27 times in U.S. history, and the Constitution has been amended to overturn a Supreme Court ruling only four times in history.

After the Supreme Court declared the law banning flag desecration unconstitutional, Congress proposed a Constitutional amendment. A version of this proposed amendment that was before Congress in 2019 reads: “The Congress shall have power to prohibit the physical desecration of the flag of the United States.”

Questions for Discussion

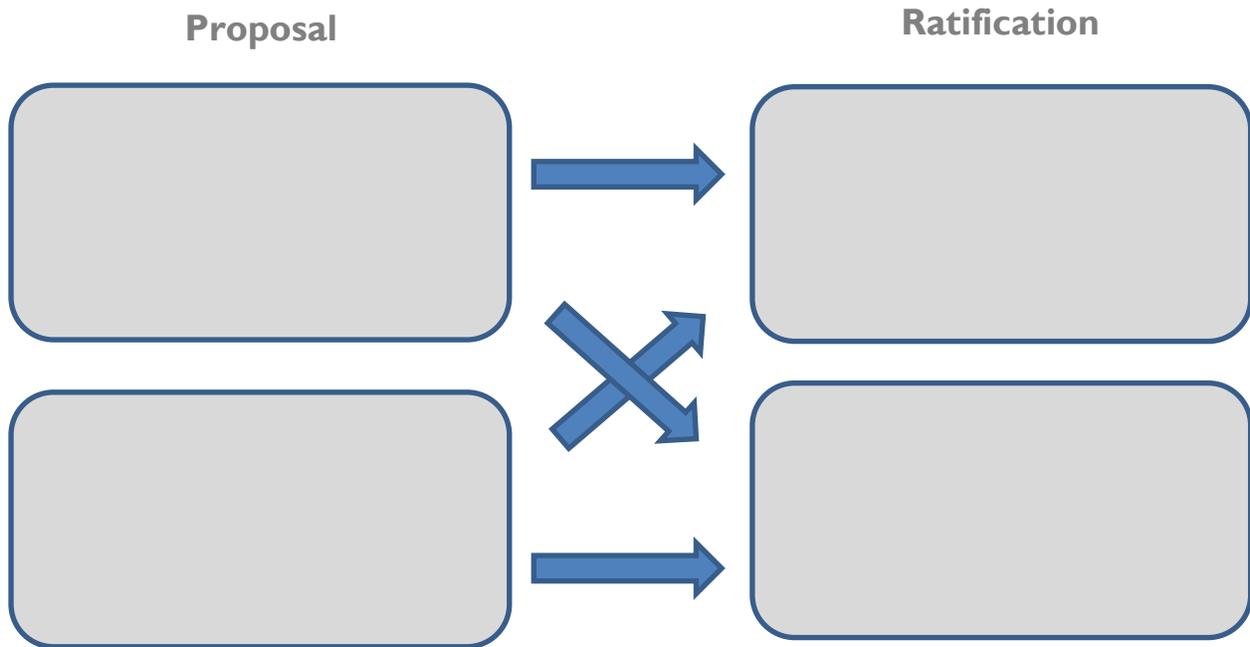
1. Define the term “amend.”
2. Why did the Framers want people to be able to change the Constitution?
3. Do you think the process of adding amendments to the Constitution is a difficult or easy process? Explain your opinion.

Amendment Process

Read the text of Article V of the U.S. Constitution below. Using two different colored highlighters or notations (e.g., underline, circle, star) note the two methods of proposing an amendment to the Constitution and two methods of ratification. Using that information, complete the graphic organizer below.

Article V of the U.S. Constitution

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress.



Questions to Consider

1. Note that there are two methods of initiating amendments and two methods of ratifying them, for a total of four possible routes. Is one method preferable to others? Why?
2. What are some ways in which citizens can be involved in various parts the process?
3. At which level are there the greatest opportunities for citizen involvement? Explain.

4. Identify the advantages and disadvantages of the amendment process by completing the following table:

Process Components	Advantages	Disadvantages
Two-part process		
Role of citizens		
Role of national government		
Role of states		
Role of federalism (i.e., division of powers/duties between the national and state governments)		

5. Should there be changes to the amendment process to make it easier to amend the Constitution? Why or why not?