



Stock Connection Blue/Alamy

Constitution Quick Study Guide

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United States Constitution

The Preamble states the broad purposes the Constitution is intended to serve—to establish a government that provides for greater cooperation among the States, ensures justice and peace, provides for defense against foreign enemies, promotes the general well-being of the people, and secures liberty now and in the future. The phrase We the People emphasizes the twin concepts of popular sovereignty and of representative government.

Legislative Department

Section 1. Legislative power; Congress

Congress, the nation's lawmaking body, is bicameral in form; that is, it is composed of two houses: the Senate and the House of Representatives. The Framers of the Constitution purposely separated the lawmaking power from the power to enforce the laws (Article II, the Executive Branch) and the power to interpret them (Article III, the Judicial Branch). This system of separation of powers is supplemented by a system of checks and balances; that is, in several provisions the Constitution gives to each of the three branches various powers with which it may restrain the actions of the other two branches.

Section 2. House of Representatives

► **Clause 1. Election** Electors means voters. Members of the House of Representatives are elected every two years. Each State must permit the same persons to vote for United States representatives as it permits to vote for the members of the larger house of its own legislature. The 17th Amendment (1913) extends this requirement to the qualification of voters for United States senators.

► **Clause 2. Qualifications** A member of the House of Representatives must be at least 25 years old, an American citizen for seven years, and a resident of the State he or she represents. In addition, political custom requires that a representative also reside in the district from which he or she is elected.

► **Clause 3. Apportionment** The number of representatives each State is entitled to is based on its population, which is counted every 10 years in the census. Congress reapportions the seats among the States after each census. In the Reapportionment Act of 1929, Congress fixed the permanent size of the House at 435 members with each State having at least one representative. Today there is one House seat for approximately every 700,000 persons in the population.

The words “three-fifths of all other persons” referred to slaves and reflected the Three-Fifths Compromise reached by the Framers at Philadelphia in 1787; the phrase was made obsolete, was in effect repealed, by the 13th Amendment in 1865.

* The gray words indicate portions of the Constitution altered by subsequent amendments to the document.

► **Clause 4. Vacancies** The executive authority refers to the governor of a State. If a member leaves office or dies before the expiration of his or her term, the governor is to call a special election to fill the vacancy.

PREAMBLE

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article I.

Section 1.

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2.

- 1. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.
- 2. No Person shall be a Representative who shall not have attained to the age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.
- 3. Representatives and direct Taxes* shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and, until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.
- 4. When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

- ▶ 5. The House of Representatives shall choose their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section 3.

- ▶ 1. The Senate of the United States shall be composed of two Senators from each State chosen by the Legislature thereof for six Years; and each Senator shall have one Vote.
- ▶ 2. Immediately after they shall be assembled in Consequences of the first Election, they shall be divided, as equally as may be, into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year; of the second Class, at the Expiration of the fourth Year; and of the third Class, at the Expiration of the sixth Year; so that one-third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.
- ▶ 3. No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.
- ▶ 4. The Vice President of the United States shall be President of the Senate but shall have no Vote, unless they be equally divided.
- ▶ 5. The Senate shall choose their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.
- ▶ 6. The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.
- ▶ 7. Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust, or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

- ▶ **Clause 5. Officers; impeachment** The House elects a Speaker, customarily chosen from the majority party in the House. Impeachment means accusation. The House has the exclusive power to impeach, or accuse, civil officers; the Senate (Article I, Section 3, Clause 6) has the exclusive power to try those impeached by the House.

Section 3. Senate

- ▶ **Clause 1. Composition, election, term** Each State has two senators. Each serves for six years and has one vote. Originally, senators were not elected directly by the people, but by each State's legislature. The 17th Amendment, added in 1913, provides for the popular election of senators.
- ▶ **Clause 2. Classification** The senators elected in 1788 were divided into three groups so that the Senate could become a "continuing body." One-third of the Senate's seats are up for election every two years.
The 17th Amendment provides that a Senate vacancy is to be filled at a special election called by the governor; State law may also permit the governor to appoint a successor to serve until that election is held.
- ▶ **Clause 3. Qualifications** A senator must be at least 30 years old, a citizen for at least nine years, and must live in the State from which elected.
- ▶ **Clause 4. Presiding officer** The Vice President presides over the Senate, but may vote only to break a tie.
- ▶ **Clause 5. Other officers** The Senate chooses its own officers, including a president pro tempore to preside when the Vice President is not there.
- ▶ **Clause 6. Impeachment trials** The Senate conducts the trials of those officials impeached by the House. The Vice President presides unless the President is on trial, in which case the Chief Justice of the United States does so. A conviction requires the votes of two-thirds of the senators present.
No President has ever been convicted. In 1868 the House voted eleven articles of impeachment against President Andrew Johnson, but the Senate fell one vote short of convicting him. In 1974 President Richard M. Nixon resigned the presidency in the face of almost certain impeachment by the House. The House brought two articles of impeachment against President Bill Clinton in late 1998. Neither charge was supported by even a simple majority vote in the Senate, on February 12, 1999.
- ▶ **Clause 7. Penalty on conviction** The punishment of an official convicted in an impeachment case has always been removal from office. The Senate can also bar a convicted person from ever holding any federal office, but it is not required to do so. A convicted person can also be tried and punished in a regular court for any crime involved in the impeachment case.

Section 4. Elections and Meetings

- ▶ **Clause 1. Election In 1842** Congress required that representatives be elected from districts within each State with more than one seat in the House. The districts in each State are drawn by that State's legislature. Seven States now have only one seat in the House: Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont, and Wyoming. The 1842 law also directed that representatives be elected in each State on the same day: the Tuesday after the first Monday in November of every even-numbered year. In 1914 Congress also set that same date for the election of senators.
- ▶ **Clause 2. Sessions Congress** must meet at least once a year. The 20th Amendment (1933) changed the opening date to January 3.

Section 5. Legislative Proceedings

- ▶ **Clause 1. Admission of members; quorum** In 1969 the Supreme Court held that the House cannot exclude any member-elect who satisfies the qualifications set out in Article I, Section 2, Clause 2.

A majority in the House (218 members) or Senate (51) constitutes a quorum. In practice, both houses often proceed with less than a quorum present. However, any member may raise a point of order (demand a "quorum call"). If a roll call then reveals less than a majority of the members present, that chamber must either adjourn or the sergeant at arms must be ordered to round up absent members.
- ▶ **Clause 2. Rules** Each house has adopted detailed rules to guide its proceedings. Each house may discipline members for unacceptable conduct; expulsion requires a two-thirds vote.
- ▶ **Clause 3. Record** Each house must keep and publish a record of its meetings. The Congressional Record is published for every day that either house of Congress is in session, and provides a written record of all that is said and done on the floor of each house each session.
- ▶ **Clause 4. Adjournment** Once in session, neither house may suspend (recess) its work for more than three days without the approval of the other house. Both houses must always meet in the same location.

Section 4.

- ▶ 1. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such Regulations, except as to the Places of choosing Senators.
- ▶ 2. The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Section 5.

- ▶ 1. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties, as each House may provide.
- ▶ 2. Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.
- ▶ 3. Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.
- ▶ 4. Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section 6.

- ▶ 1. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony, and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.
- ▶ 2. No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section 7.

- ▶ 1. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other Bills.
- ▶ 2. Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States: If he approve, he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of the House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sunday excepted) after it shall have been presented to him, the Same shall be a law, in like Manner as if he had signed it, unless the Congress by their Adjournment, prevent its Return, in which Case it shall not be a Law.
- ▶ 3. Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or, being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section 6. Compensation, Immunities, and Disabilities of Members

▶ **Clause 1. Salaries; immunities** Each house sets its members' salaries, paid by the United States; the 27th Amendment (1992) modified this pay-setting power. This provision establishes "legislative immunity." The purpose of this immunity is to allow members to speak and debate freely in Congress itself. Treason is strictly defined in Article III, Section 3. A felony is any serious crime. A breach of the peace is any indictable offense less than treason or a felony; this exemption from arrest is of little real importance today.

▶ **Clause 2. Restrictions on office holding** No sitting member of either house may be appointed to an office in the executive or in the judicial branch if that position was created or its salary was increased during that member's current elected term. The second part of this clause—prohibiting any person serving in either the executive or the judicial branch from also serving in Congress—reinforces the principle of separation of powers.

Section 7. Revenue Bills, President's Veto

▶ **Clause 1. Revenue bills** All bills that raise money must originate in the House. However, the Senate has the power to amend any revenue bill sent to it from the lower house.

▶ **Clause 2. Enactment of laws; veto** Once both houses have passed a bill, it must be sent to the President. The President may (1) sign the bill, thus making it law; (2) veto the bill, whereupon it must be returned to the house in which it originated; or (3) allow the bill to become law without signature, by not acting upon it within 10 days of its receipt from Congress, not counting Sundays. The President has a fourth option at the end of a congressional session: If he does not act on a measure within 10 days, and Congress adjourns during that period, the bill dies; the "pocket veto" has been applied to it. A presidential veto may be overridden by a two-thirds vote in each house.

▶ **Clause 3. Other measures** This clause refers to joint resolutions, measures Congress often passes to deal with unusual, temporary, or ceremonial matters. A joint resolution passed by Congress and signed by the President has the force of law, just as a bill does. As a matter of custom, a joint resolution proposing an amendment to the Constitution is not submitted to the President for signature or veto. Concurrent and simple resolutions do not have the force of law and, therefore, are not submitted to the President.

Section 8. Powers of Congress

- ▶ **Clause 1.** The 18 separate clauses in this section set out 27 of the many expressed powers the Constitution grants to Congress. In this clause Congress is given the power to levy and provide for the collection of various kinds of taxes, in order to finance the operations of the government. All federal taxes must be levied at the same rates throughout the country.
- ▶ **Clause 2.** Congress has power to borrow money to help finance the government. Federal borrowing is most often done through the sale of bonds on which interest is paid. The Constitution does not limit the amount the government may borrow.
- ▶ **Clause 3.** This clause, the Commerce Clause, gives Congress the power to regulate both foreign and interstate trade. Much of what Congress does, it does on the basis of its commerce power.
- ▶ **Clause 4.** Congress has the exclusive power to determine how aliens may become citizens of the United States. Congress may also pass laws relating to bankruptcy.
- ▶ **Clause 5.** has the power to establish and require the use of uniform gauges of time, distance, weight, volume, area, and the like.
- ▶ **Clause 6.** Congress has the power to make it a federal crime to falsify the coins, paper money, bonds, stamps, and the like of the United States.
- ▶ **Clause 7.** Congress has the power to provide for and regulate the transportation and delivery of mail; “post offices” are those buildings and other places where mail is deposited for dispatch; “post roads” include all routes over or upon which mail is carried.
- ▶ **Clause 8.** Congress has the power to provide for copyrights and patents. A copyright gives an author or composer the exclusive right to control the reproduction, publication, and sale of literary, musical, or other creative work. A patent gives a person the exclusive right to control the manufacture or sale of his or her invention.
- ▶ **Clause 9.** Congress has the power to create the lower federal courts, all of the several federal courts that function beneath the Supreme Court.
- ▶ **Clause 10.** Congress has the power to prohibit, as a federal crime: (1) certain acts committed outside the territorial jurisdiction of the United States, and (2) the commission within the United States of any wrong against any nation with which we are at peace.

Section 8.

The Congress shall have Power

- ▶ 1. To lay and collect Taxes, Duties, Imposts and Excises to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises, shall be uniform throughout the United States;
- ▶ 2. To borrow Money on the credit of the United States;
- ▶ 3. To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;
- ▶ 4. To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;
- ▶ 5. To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;
- ▶ 6. To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;
- ▶ 7. To establish Post Offices and post Roads;
- ▶ 8. To promote the Progress of Science and useful Arts, by securing, for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;
- ▶ 9. To constitute Tribunals inferior to the supreme Court;
- ▶ 10. To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of nations;

- ▶ 11. To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;
- ▶ 12. To raise and support Armies; but no Appropriation of Money to that Use shall be for a longer Term than two Years;
- ▶ 13. To provide and maintain a Navy;
- ▶ 14. To make Rules for the Government and Regulation of the land and naval Forces;
- ▶ 15. To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;
- ▶ 16. To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;
- ▶ 17. To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of Particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, Dockyards and other needful Buildings;—
And
- ▶ 18. To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section 9.

- ▶ 1. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

- ▶ **Clause 11.** Only Congress can declare war. However, the President, as commander in chief of the armed forces (Article II, Section 2, Clause 1), can make war without such a formal declaration. Letters of marque and reprisal are commissions authorizing private persons to outfit vessels (privateers) to capture and destroy enemy ships in time of war; they were forbidden in international law by the Declaration of Paris of 1856, and the United States has honored the ban since the Civil War.
- ▶ **Clauses 12 and 13.** Congress has the power to provide for and maintain the nation's armed forces. It established the air force as an independent element of the armed forces in 1947, an exercise of its inherent powers in foreign relations and national defense. The two-year limit on spending for the army insures civilian control of the military.
- ▶ **Clause 14.** Today these rules are set out in three principle statutes: the Uniform Code of Military Justice, passed by Congress in 1950, and the Military Justice Acts of 1958 and 1983.
- ▶ **Clauses 15 and 16.** In the National Defense Act of 1916, Congress made each State's militia (volunteer army) a part of the National Guard. Today, Congress and the States cooperate in its maintenance. Ordinarily, each State's National Guard is under the command of that State's governor; but Congress has given the President the power to call any or all of those units into federal service when necessary.
- ▶ **Clause 17.** In 1791 Congress accepted land grants from Maryland and Virginia and established the District of Columbia for the nation's capital. Assuming Virginia's grant would never be needed, Congress returned it in 1846. Today, the elected government of the District's 69 square miles operates under the authority of Congress. Congress also has the power to acquire other lands from the States for various federal purposes.
- ▶ **Clause 18.** This is the Necessary and Proper Clause, also often called the Elastic Clause. It is the constitutional basis for the many and far-reaching implied powers of the Federal Government.

Section 9. Powers Denied to Congress

- ▶ **Clause 1.** The phrase "such persons" referred to slaves. This provision was part of the Commerce Compromise, one of the bargains struck in the writing of the Constitution. Congress outlawed the slave trade in 1808.

- ▶ **Clause 2.** A writ of habeas corpus, the “great writ of liberty,” is a court order directing a sheriff, warden, or other public officer, or a private person, who is detaining another to “produce the body” of the one being held in order that the legality of the detention may be determined by the court.
- ▶ **Clause 3.** A bill of attainder is a legislative act that inflicts punishment without a judicial trial. See Article I, Section 10, and Article III, Section 3, Clause 2. An ex post facto law is any criminal law that operates retroactively to the disadvantage of the accused. See Article I, Section 10.
- ▶ **Clause 4.** A capitation tax is literally a “head tax,” a tax levied on each person in the population. A direct tax is one paid directly to the government by the taxpayer—for example, an income or a property tax; an indirect tax is one paid to another private party who then pays it to the government—for example, a sales tax. This provision was modified by the 16th Amendment (1913), giving Congress the power to levy “taxes on incomes, from whatever source derived.”
- ▶ **Clause 5.** This provision was a part of the Commerce Compromise made by the Framers in 1787. Congress has the power to tax imported goods, however.
- ▶ **Clause 6.** All ports within the United States must be treated alike by Congress as it exercises its taxing and commerce powers. Congress cannot tax goods sent by water from one State to another, nor may it give the ports of one State any legal advantage over those of another.
- ▶ **Clause 7.** This clause gives Congress its vastly important “power of the purse,” a major check on presidential power. Federal money can be spent only in those amounts and for those purposes expressly authorized by an act of Congress. All federal income and spending must be accounted for, regularly and publicly.
- ▶ **Clause 8.** This provision, preventing the establishment of a nobility, reflects the principle that “all men are created equal.” It was also intended to discourage foreign attempts to bribe or otherwise corrupt officers of the government.

Section 10. Powers Denied to the States

- ▶ **Clause 1.** The States are not sovereign governments and so cannot make agreements or otherwise negotiate with foreign states; the power to conduct foreign relations is an exclusive power of the National Government. The power to coin money is also an exclusive power of the National Government. Several powers forbidden to the National Government are here also forbidden to the States.
- ▶ **Clause 2.** This provision relates to foreign, not interstate, commerce. Only Congress, not the States, can tax imports; and the States are, like Congress, forbidden the power to tax exports.

- ▶ 2. The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public safety may require it.
- ▶ 3. No Bill of Attainder or ex post facto Law shall be passed.
- ▶ 4. No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census of Enumeration hereinbefore directed to be taken.
- ▶ 5. No Tax or Duty shall be laid on Articles exported from any State.
- ▶ 6. No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear or pay Duties in another.
- ▶ 7. No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.
- ▶ 8. No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Section 10.

- ▶ 1. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.
- ▶ 2. No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws; and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress.

- ▶ 3. No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Article II

Section 1.

- ▶ 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected as follows:
- ▶ 2. Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit, under the United States, shall be appointed an Elector.
- ▶ 3. The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then, the House of Representatives shall immediately choose by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner choose the President. But in choosing the President, the Votes shall be taken by States, the Representatives from each State having one Vote; a quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall choose from them by Ballot the Vice President.

- ▶ **Clause 3.** A duty of tonnage is a tax laid on ships according to their cargo capacity. Each State has a constitutional right to provide for and maintain a militia; but no State may keep a standing army or navy. The several restrictions here prevent the States from assuming powers that the Constitution elsewhere grants to the National Government.

Executive Department

Section 1. President and Vice President

- ▶ **Clause 1. Executive power, term** This clause gives to the President the very broad “executive power,” the power to enforce the laws and otherwise administer the public policies of the United States. It also sets the length of the presidential (and vice-presidential) term of office; see the 22nd Amendment (1951), which places a limit on presidential (but not vice-presidential) tenure.
- ▶ **Clause 2. Electoral college** This clause establishes the “electoral college,” although the Constitution does not use that term. It is a body of presidential electors chosen in each State, and it selects the President and Vice President every four years. The number of electors chosen in each State equals the number of senators and representatives that State has in Congress.
- ▶ **Clause 3. Election of President and Vice President** This clause was replaced by the 12th Amendment in 1804.

▶ **Clause 4. Date** Congress has set the date for the choosing of electors as the Tuesday after the first Monday in November every fourth year, and for the casting of electoral votes as the Monday after the second Wednesday in December of that year.

▶ **Clause 5. Qualifications** The President must have been born a citizen of the United States, be at least 35 years old, and have been a resident of the United States for at least 14 years.

▶ **Clause 6. Vacancy** This clause was modified by the 25th Amendment (1967), which provides expressly for the succession of the Vice President, for the filling of a vacancy in the Vice Presidency, and for the determination of presidential inability.

▶ **Clause 7. Compensation** The President now receives a salary of \$400,000 and a taxable expense account of \$50,000 a year. Those amounts cannot be changed during a presidential term; thus, Congress cannot use the President's compensation as a bargaining tool to influence executive decisions. The phrase "any other emolument" means, in effect, any valuable gift; it does not mean that the President cannot be provided with such benefits of office as the White House, extensive staff assistance, and much else.

▶ **Clause 8. Oath of office** The Chief Justice of the United States regularly administers this oath or affirmation, but any judicial officer may do so. Thus, Calvin Coolidge was sworn into office in 1923 by his father, a justice of the peace in Vermont.

Section 2. President's Powers and Duties

▶ **Clause 1. Military, civil powers** The President, a civilian, heads the nation's armed forces, a key element in the Constitution's insistence on civilian control of the military. The President's power to "require the opinion, in writing" provides the constitutional basis for the Cabinet. The President's power to grant reprieves and pardons, the power of clemency, extends only to federal cases.

▶ 4. The Congress may determine the Time of choosing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

▶ 5. No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States.

▶ 6. In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

▶ 7. The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

▶ 8. Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:
"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section 2.

▶ 1. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to Grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

▶ 2. He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

▶ 3. The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section 3.

He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section 4.

The President, Vice President and all Civil Officers of the United States, shall be removed from Office on Impeachment for and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Article III

Section 1.

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

▶ **Clause 2. Treaties, appointments** The President has the sole power to make treaties; to become effective, a treaty must be approved by a two-thirds vote in the Senate. In practice, the President can also make executive agreements with foreign governments; these pacts, which are frequently made and usually deal with routine matters, do not require Senate consent. The President appoints the principal officers of the executive branch and all federal judges; the “inferior officers” are those who hold lesser posts.

▶ **Clause 3. Recess appointments** When the Senate is not in session, appointments that require Senate consent can be made by the President on a temporary basis, as “recess appointments.” Recess appointments are valid only to the end of the congressional term in which they are made.

Section 3. President's Powers and Duties

The President delivers a State of the Union Message to Congress soon after that body convenes each year. That message is delivered to the nation's lawmakers and, importantly, to the American people, as well. It is shortly followed by the proposed federal budget and an economic report; and the President may send special messages to Congress at any time. In all of these communications, Congress is urged to take those actions the Chief Executive finds to be in the national interest. The President also has the power: to call special sessions of Congress; to adjourn Congress if its two houses cannot agree for that purpose; to receive the diplomatic representatives of other governments; to insure the proper execution of all federal laws; and to empower federal officers to hold their posts and perform their duties.

Section 4. Impeachment

The Constitution outlines the impeachment process in Article I, Section 2, Clause 5 and in Section 3, Clauses 6 and 7.

Judicial Department

Section 1. Judicial Power, Courts, Terms of Office

The judicial power conferred here is the power of federal courts to hear and decide cases, disputes between the government and individuals and between private persons (parties). The Constitution creates only the Supreme Court of the United States; it gives to Congress the power to establish other, lower federal courts (Article I, Section 8, Clause 9) and to fix the size of the Supreme Court. The words “during good Behaviour” mean, in effect, for life.

Section 2. Jurisdiction

▶ **Clause 1. Cases to be heard** This clause sets out the jurisdiction of the federal courts; that is, it identifies those cases that may be tried in those courts. The federal courts can hear and decide—have jurisdiction over—a case depending on either the subject matter or the parties involved in that case. The jurisdiction of the federal courts in cases involving States was substantially restricted by the 11th Amendment in 1795.

▶ **Clause 2. Supreme Court jurisdiction** Original jurisdiction refers to the power of a court to hear a case in the first instance, not on appeal from a lower court. Appellate jurisdiction refers to a court's power to hear a case on appeal from a lower court, from the court in which the case was originally tried. This clause gives the Supreme Court both original and appellate jurisdiction. However, nearly all of the cases the High Court hears are brought to it on appeal from the lower federal courts and the highest State courts.

▶ **Clause 3. Jury trial in criminal cases** A person accused of a federal crime is guaranteed the right to trial by jury in a federal court in the State where the crime was committed; see the 5th and 6th amendments. The right to trial by jury in serious criminal cases in the State courts is guaranteed by the 6th and 14th amendments.

Section 3. Treason

▶ **Clause 1. Definition** Treason is the only crime defined in the Constitution. The Framers intended the very specific definition here to prevent the loose use of the charge of treason—for example, against persons who criticize the government. Treason can be committed only in time of war and only by a citizen or a resident alien.

▶ **Clause 2. Punishment** Congress has provided that the punishment that a federal court may impose on a convicted traitor may range from a minimum of five years in prison and/or a \$10,000 fine to a maximum of death; no person convicted of treason has ever been executed by the United States. No legal punishment can be imposed on the family or descendants of a convicted traitor. Congress has also made it a crime for any person (in either peace or wartime) to commit espionage or sabotage, to attempt to overthrow the government by force, or to conspire to do any of these things.

Section 2.

- ▶ 1. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;— to all Cases affecting Ambassadors, other public ministers, and Consuls;— to all Cases of Admiralty and maritime Jurisdiction;— to Controversies to which the United States shall be a Party;— to Controversies between two or more States;— *between a State and Citizens of another State*;— *between Citizens of different States*;— *between Citizens of the same State claiming Lands under Grants of different States*, and between a State, or the Citizens thereof, and foreign States, Citizens, or Subjects.
- ▶ 2. In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.
- ▶ 3. The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section 3.

- ▶ 1. Treason against the United States shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.
- ▶ 2. The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

Article IV

Section 1.

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section 2.

- ▶ 1. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

- ▶ 2. A Person charged in any State with Treason, Felony, or other Crime, who shall flee from justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

- ▶ 3. No Person held to Service or Labor in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from Service or Labor, but shall be delivered up on Claim of the Party to whom such Service or Labor may be due.

Section 3.

- ▶ 1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

- ▶ 2. The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section 4.

The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

Relations Among States

Section 1. Full Faith and Credit

Each State must recognize the validity of the laws, public records, and court decisions of every other State.

Section 2. Privileges and Immunities of Citizens

- ▶ **Clause 1. Residents of other States** In effect, this clause means that no State may discriminate against the residents of other States; that is, a State's laws cannot draw unreasonable distinctions between its own residents and those of any of the other States. See Section 1 of the 14th Amendment.

- ▶ **Clause 2. Extradition** The process of returning a fugitive to another State is known as "interstate rendition" or, more commonly, "extradition." Usually, that process works routinely; some extradition requests are contested however—especially in cases with racial or political overtones. A governor may refuse to extradite a fugitive; but the federal courts can compel an unwilling governor to obey this constitutional command.

- ▶ **Clause 3. Fugitive slaves** This clause was nullified by the 13th Amendment, which abolished slavery in 1865.

Section 3. New States; Territories

- ▶ **Clause 1. New States** Only Congress can admit new States to the Union. A new State may not be created by taking territory from an existing State without the consent of that State's legislature. Congress has admitted 37 States since the original 13 formed the Union. Five States—Vermont, Kentucky, Tennessee, Maine, and West Virginia—were created from parts of existing States. Texas was an independent republic before admission. California was admitted after being ceded to the United States by Mexico. Each of the other 30 States entered the Union only after a period of time as an organized territory of the United States.

- ▶ **Clause 2. Territory, property** Congress has the power to make laws concerning the territories, other public lands, and all other property of the United States.

Section 4. Protection Afforded to States by the Nation

The Constitution does not define "a republican form of government," but the phrase is generally understood to mean a representative government. The Federal Government must also defend each State against attacks from outside its border and, at the request of a State's legislature or its governor, aid its efforts to put down internal disorders.

Provisions for Amendment

This section provides for the methods by which formal changes can be made in the Constitution. An amendment may be proposed in one of two ways: by a two-thirds vote in each house of Congress, or by a national convention called by Congress at the request of two-thirds of the State legislatures. A proposed amendment may be ratified in one of two ways: by three-fourths of the State legislatures, or by three-fourths of the States in conventions called for that purpose. Congress has the power to determine the method by which a proposed amendment may be ratified. The amendment process cannot be used to deny any State its equal representation in the United States Senate. To this point, 27 amendments have been adopted. To date, all of the amendments except the 21st Amendment were proposed by Congress and ratified by the State legislatures. Only the 21st Amendment was ratified by the convention method.

National Debts, Supremacy of National Law, Oath

Section 1. Validity of Debts

Congress had borrowed large sums of money during the Revolution and later during the Critical Period of the 1780s. This provision, a pledge that the new government would honor those debts, did much to create confidence in that government.

Section 2. Supremacy of National Law

This section sets out the Supremacy Clause, a specific declaration of the supremacy of federal law over any and all forms of State law. No State, including its local governments, may make or enforce any law that conflicts with any provision in the Constitution, an act of Congress, a treaty, or an order, rule, or regulation properly issued by the President or his subordinates in the executive branch.

Section 3. Oaths of Office

This provision reinforces the Supremacy Clause; all public officers, at every level in the United States, owe their first allegiance to the Constitution of the United States. No religious qualification can be imposed as a condition for holding any public office.

Ratification of Constitution

The proposed Constitution was signed by George Washington and 37 of his fellow Framers on September 17, 1787. (George Read of Delaware signed for himself and also for his absent colleague, John Dickinson.)

Article V

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; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Article VI

Section 1.

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

Section 2.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, anything in the constitution or Laws of any State to the Contrary notwithstanding.

Section 3.

The Senators and Representatives before mentioned, and the Members of the several State legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Article VII

The ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the same.

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty-seven and of the Independence of the United States of America the twelfth. In witness whereof We have hereunto subscribed our Names.

Attest:

William Jackson,
Secretary
George Washington,
President and Deputy
from Virginia

New Hampshire

John Langdon
Nicholas Gilman

Massachusetts

Nathaniel Gorham
Rufus King

Connecticut

William Samuel Johnson
Roger Sherman

New York

Alexander Hamilton

New Jersey

William Livingston
David Brearley
William Paterson
Jonathan Dayton

Pennsylvania

Benjamin Franklin
Thomas Mifflin
Robert Morris
George Clymer
Thomas Fitzsimons
Jared Ingersoll
James Wilson
Gouverneur Morris

Delaware

George Read
Gunning Bedford, Jr.
John Dickinson
Richard Bassett
Jacob Broom

Maryland

James McHenry
Daniel of St. Thomas
Jenifer
Daniel Carroll

Virginia

John Blair
James Madison, Jr.

North Carolina

William Blount
Richard Dobbs Spaight
Hugh Williamson

South Carolina

John Rutledge
Charles Cotesworth
Pinckney
Charles Pinckney
Pierce Butler

Georgia

William Few
Abraham Baldwin

The United States Constitution

Amendments

The first 10 amendments, the Bill of Rights, were each proposed by Congress on September 25, 1789, and ratified by the necessary three-fourths of the States on December 15, 1791. These amendments were originally intended to restrict the National Government—not the States. However, the Supreme Court has several times held that most of their provisions also apply to the States, through the 14th Amendment's Due Process Clause.

1st Amendment. Freedom of Religion, Speech, Press, Assembly, and Petition

The 1st Amendment sets out five basic liberties: The guarantee of freedom of religion is both a protection of religious thought and practice and a command of separation of church and state. The guarantees of freedom of speech and press assure to all persons a right to speak, publish, and otherwise express their views. The guarantees of the rights of assembly and petition protect the right to join with others in public meetings, political parties, interest groups, and other associations to discuss public affairs and influence public policy. None of these rights is guaranteed in absolute terms, however; like all other civil rights guarantees, each of them may be exercised only with regard to the rights of all other persons.

2nd Amendment. Bearing Arms

The right of the people to keep and bear arms was insured by the 2nd Amendment.

3rd Amendment. Quartering of Troops

This amendment was intended to prevent what had been common British practice in the colonial period; see the Declaration of Independence. This provision is of virtually no importance today.

4th Amendment. Searches and Seizures

The basic rule laid down by the 4th Amendment is this: Police officers have no general right to search for or seize evidence or seize (arrest) persons. Except in particular circumstances, they must have a proper warrant (a court order) obtained with probable cause (on reasonable grounds). This guarantee is reinforced by the exclusionary rule, developed by the Supreme Court: Evidence gained as the result of an unlawful search or seizure cannot be used at the court trial of the person from whom it was seized.

5th Amendment. Criminal Proceedings; Due Process; Eminent Domain

A person can be tried for a serious federal crime only if he or she has been indicted (charged, accused of that crime) by a grand jury. No one may be subjected to double jeopardy—that is, tried twice for the same crime. All persons are protected against self-incrimination; no person can be legally compelled to answer any question in any governmental proceeding if that answer could lead to that person's prosecution. The 5th Amendment's Due Process Clause prohibits unfair, arbitrary actions by the Federal Government; a like prohibition is set out against the States in the 14th Amendment. Government may take private property for a legitimate public purpose; but when it exercises that power of eminent domain, it must pay a fair price for the property seized.

1st Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

2nd Amendment

A well-regulated Militia being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

3rd Amendment.

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.

4th Amendment.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

5th Amendment.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War, or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

6th Amendment

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

7th Amendment

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

8th Amendment

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

9th Amendment

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

10th Amendment

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

6th Amendment. Criminal Proceedings

A person accused of crime has the right to be tried in court without undue delay and by an impartial jury; see Article III, Section 2, Clause 3. The defendant must be informed of the charge upon which he or she is to be tried, has the right to cross-examine hostile witnesses, and has the right to require the testimony of favorable witnesses. The defendant also has the right to be represented by an attorney at every stage in the criminal process.

7th Amendment. Civil Trials

This amendment applies only to civil cases heard in federal courts. A civil case does not involve criminal matters; it is a dispute between private parties or between the government and a private party. The right to trial by jury is guaranteed in any civil case in a federal court if the amount of money involved in that case exceeds \$20 (most cases today involve a much larger sum); that right may be waived (relinquished, put aside) if both parties agree to a bench trial (a trial by a judge, without a jury).

8th Amendment. Punishment for Crimes

Bail is the sum of money that a person accused of crime may be required to post (deposit with the court) as a guarantee that he or she will appear in court at the proper time. The amount of bail required and/or a fine imposed as punishment must bear a reasonable relationship to the seriousness of the crime involved in the case. The prohibition of cruel and unusual punishment forbids any punishment judged to be too harsh, too severe for the crime for which it is imposed.

9th Amendment. Unenumerated Rights

The fact that the Constitution sets out many civil rights guarantees, expressly provides for many protections against government, does not mean that there are not other rights also held by the people.

10th Amendment. Powers Reserved to the States

This amendment identifies the area of power that may be exercised by the States. All of those powers the Constitution does not grant to the National Government, and at the same time does not forbid to the States, belong to each of the States, or to the people of each State.

11th Amendment. Suits Against States

Proposed by Congress March 4, 1794; ratified February 7, 1795, but official announcement of the ratification was delayed until January 8, 1798. This amendment repealed part of Article III, Section 2, Clause 1. No State may be sued in a federal court by a resident of another State or of a foreign country; the Supreme Court has long held that this provision also means that a State cannot be sued in a federal court by a foreign country or, more importantly, even by one of its own residents.

12th Amendment. Election of President and Vice President

Proposed by Congress December 9, 1803; ratified June 15, 1804. This amendment replaced Article II, Section 1, Clause 3. Originally, each elector cast two ballots, each for a different person for President. The person with the largest number of electoral votes, provided that number was a majority of the electors, was to become President; the person with the second highest number was to become Vice President. This arrangement produced an electoral vote tie between Thomas Jefferson and Aaron Burr in 1800; the House finally chose Jefferson as President in 1801. The 12th Amendment separated the balloting for President and Vice President; each elector now casts one ballot for someone as President and a second ballot for another person as Vice President. Note that the 20th Amendment changed the date set here (March 4) to January 20, and that the 23rd Amendment (1961) provides for electors from the District of Columbia. This amendment also provides that the Vice President must meet the same qualifications as those set out for the President in Article II, Section 1, Clause 5.

13th Amendment. Slavery and Involuntary Servitude

Proposed by Congress January 31, 1865; ratified December 6, 1865. This amendment forbids slavery in the United States and in any area under its control. It also forbids other forms of forced labor, except punishments for crime; but some forms of compulsory service are not prohibited—for example, service on juries or in the armed forces. Section 2 gives to Congress the power to carry out the provisions of Section 1 of this amendment.

11th Amendment

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

12th Amendment

The Electors shall meet in their respective States and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;— The President of the Senate shall, in the presence of the Senate and the House of Representatives, open all the certificates and the votes shall then be counted;— the person having the greatest Number of votes for President shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such a majority, then, from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in case of death or other constitutional disability of the President. The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two thirds of the whole number of Senators, a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

13th Amendment

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

14th Amendment

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. 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.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

14th Amendment. Rights of Citizens

Proposed by Congress June 13, 1866; ratified July 9, 1868. Section 1 defines citizenship. It provides for the acquisition of United States citizenship by birth or by naturalization. Citizenship at birth is determined according to the principle of *jus soli*—"the law of the soil," where born; naturalization is the legal process by which one acquires a new citizenship at some time after birth. Under certain circumstances, citizenship can also be gained at birth abroad, according to the principle of *jus sanguinis*—"the law of the blood," to whom born. This section also contains two major civil rights provisions: the Due Process Clause forbids a State (and its local governments) to act in any unfair or arbitrary way; the Equal Protection Clause forbids a State (and its local governments) to discriminate against, draw unreasonable distinctions between, persons.

Most of the rights set out against the National Government in the first eight amendments have been extended against the States (and their local governments) through Supreme Court decisions involving the 14th Amendment's Due Process Clause.

The first sentence here replaced Article I, Section 2, Clause 3, the Three-Fifths Compromise provision. Essentially, all persons in the United States are counted in each decennial census, the basis for the distribution of House seats. The balance of this section has never been enforced and is generally thought to be obsolete.

This section limited the President's power to pardon those persons who had led the Confederacy during the Civil War. Congress finally removed this disability in 1898.

Section 4 also dealt with matters directly related to the Civil War. It reaffirmed the public debt of the United States; but it invalidated, prohibited payment of, any debt contracted by the Confederate States and also prohibited any compensation of former slave owners.

15th Amendment. Right to Vote— Race, Color, Servitude

Proposed by Congress February 26, 1869; ratified February 3, 1870. The phrase “previous condition of servitude” refers to slavery. Note that this amendment does not guarantee the right to vote to African Americans, or to anyone else. Instead, it forbids the States from discriminating against any person on the grounds of his “race, color, or previous condition of servitude” in the setting of suffrage qualifications.

16th Amendment. Income Tax

Proposed by Congress July 12, 1909; ratified February 3, 1913. This amendment modified two provisions in Article I, Section 2, Clause 3, and Section 9, Clause 4. It gives to Congress the power to levy an income tax, a direct tax, without regard to the populations of any of the States.

17th Amendment. Popular Election of Senators

Proposed by Congress May 13, 1912; ratified April 8, 1913. This amendment repealed those portions of Article I, Section 3, Clauses 1 and 2 relating to the election of senators. Senators are now elected by the voters in each State. If a vacancy occurs, the governor of the State involved must call an election to fill the seat; the governor may appoint a senator to serve until the next election, if the State’s legislature has authorized that step.

18th Amendment. Prohibition of Intoxicating Liquors

Proposed by Congress December 18, 1917; ratified January 16, 1919. This amendment outlawed the making, selling, transporting, importing, or exporting of alcoholic beverages in the United States. It was repealed in its entirety by the 21st Amendment in 1933.

19th Amendment. Equal Suffrage—Sex

Proposed by Congress June 4, 1919; ratified August 18, 1920. No person can be denied the right to vote in any election in the United States on account of his or her sex.

15th Amendment

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

16th Amendment

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

17th Amendment

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

18th Amendment.

Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years of the date of the submission hereof to the States by Congress.

19th Amendment

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

20th Amendment

Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Section 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

Section 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President-elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Section 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Section 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Section 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three fourths of the several States within seven years from the date of its submission.

21st Amendment

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

20th Amendment. Commencement of Terms; Sessions of Congress; Death or Disqualification of President-Elect

Proposed by Congress March 2, 1932; ratified January 23, 1933. The provisions of Sections 1 and 2 relating to Congress modified Article I, Section 4, Clause 2, and those provisions relating to the President, the 12th Amendment. The date on which the President and Vice President now take office was moved from March 4 to January 20. Similarly, the members of Congress now begin their terms on January 3. The 20th Amendment is sometimes called the "Lame Duck Amendment" because it shortened the period of time a member of Congress who was defeated for reelection (a "lame duck") remains in office.

This section deals with certain possibilities that were not covered by the presidential selection provisions of either Article II or the 12th Amendment. To this point, none of these situations has occurred. Note that there is neither a President-elect nor a Vice President-elect until the electoral votes have been counted by Congress, or, if the electoral college cannot decide the matter, the House has chosen a President or the Senate has chosen a Vice President.

Congress has not in fact ever passed such a law. See Section 2 of the 25th Amendment, regarding a vacancy in the vice presidency; that provision could some day have an impact here.

Section 5 set the date on which this amendment came into force.

Section 6 placed a time limit on the ratification process; note that a similar provision was written into the 18th, 21st, and 22nd amendments.

21st Amendment. Repeal of 18th Amendment

Proposed by Congress February 20, 1933; ratified December 5, 1933. This amendment repealed all of the 18th Amendment. Section 2 modifies the scope of the Federal Government's commerce power set out in Article I, Section 8, Clause 3; it gives to each State the power to regulate the transportation or importation and the distribution or use of intoxicating liquors in ways that would be unconstitutional in the case of any other commodity. The 21st Amendment is the only amendment Congress has thus far submitted to the States for ratification by conventions.

22nd Amendment. Presidential Tenure

Proposed by Congress March 21, 1947; ratified February 27, 1951. This amendment modified Article II, Section I, Clause 1. It stipulates that no President may serve more than two elected terms. But a President who has succeeded to the office beyond the midpoint in a term to which another President was originally elected may serve for more than eight years. In any case, however, a President may not serve more than 10 years. Prior to Franklin Roosevelt, who was elected to four terms, no President had served more than two full terms in office.

23rd Amendment. Presidential Electors for the District of Columbia

Proposed by Congress June 16, 1960; ratified March 29, 1961. This amendment modified Article II, Section I, Clause 2 and the 12th Amendment. It included the voters of the District of Columbia in the presidential electorate; and provides that the District is to have the same number of electors as the least populous State—three electors—but no more than that number.

24th Amendment. Right to Vote in Federal Elections—Tax Payment

Proposed by Congress August 27, 1962; ratified January 23, 1964. This amendment outlawed the payment of any tax as a condition for taking part in the nomination or election of any federal officeholder.

25th Amendment. Presidential Succession, Vice Presidential Vacancy, Presidential Inability

Proposed by Congress July 6, 1965; ratified February 10, 1967. Section 1 revised the imprecise provision on presidential succession in Article II, Section 1, Clause 6. It affirmed the precedent set by Vice President John Tyler, who became President on the death of William Henry Harrison in 1841. Section 2 provides for the filling of a vacancy in the office of Vice President. The office had been vacant on 16 occasions and remained unfilled for the rest of each term involved. When Spiro Agnew resigned the office in 1973, President Nixon selected Gerald Ford per this provision; and, when President Nixon resigned in 1974, Gerald Ford became President and chose Nelson Rockefeller as Vice President.

22nd Amendment

Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President, when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three fourths of the several states within seven years from the date of its submission to the States by the Congress.

23rd Amendment.

Section 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

24th Amendment.

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

25th Amendment.

Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Section 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Section 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Section 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

26th Amendment.

Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Section 2. The Congress shall have the power to enforce this article by appropriate legislation.

27th Amendment.

No law varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

This section created a procedure for determining if a President is so incapacitated that he cannot perform the powers and duties of his office.

Section 4 deals with the circumstance in which a President will not be able to determine the fact of incapacity. To this point, Congress has not established the “such other body” referred to here. This section contains the only typographical error in the Constitution; in its second paragraph, the word “department” should in fact read “departments.”

26th Amendment. Right to Vote—Age

Proposed by Congress March 23, 1971; ratified July 1, 1971. This amendment provides that the minimum age for voting in any election in the United States cannot be more than 18 years. (A State may set a minimum voting age of less than 18, however.)

27th Amendment. Congressional Pay

Proposed by Congress September 25, 1789; ratified May 7, 1992. This amendment modified Article I, Section 6, Clause 1. It limits Congress’s power to fix the salaries of its members—by delaying the effectiveness of any increase in that pay until after the next regular congressional election.