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# **The US Constitution**

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THE  
**U.S. CONSTITUTION**

HERE IS WHAT IT SAYS



**DON THAYER**

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## ***Introduction***

There were multiple motivations for writing this book. The first was political. I keep hearing what the US Constitution *really* means, or what the founders *really* intended. I hear how it allows the restriction of free speech, or gun ownership, for the protection of my well-being. Second, it slowly dawned on me that I hadn't actually *read* the first or second Amendments in a while, and even when I had, it was a quick glance to verify my own beliefs. I hadn't read the rest of the US Constitution in decades, since high school. Ultimately, instead of interpreting the Constitution to support my own beliefs, I decided to emphasize the text as written.

The intent of this writing is to remind you to think about the actual meaning of the United States Constitution. Don't let anyone convince you that only a constitutional scholar can understand its true meaning. Although there is specific legal terminology in article 1, section 9, the majority of the US Constitution is written in pretty simple language—anyone can understand it.

Most writing regarding the Constitution focuses on the agenda of the author. Have you ever heard someone say “this is what it really means” or “this was their intent” when discussing the Constitution? It doesn't really mean something else because a constitutional scholar says so. It doesn't take a scholar to understand it. Nowhere does it say it can or should be interpreted according to the original intent of some of the founders, nor does it say it should be interpreted according to an individual's belief in implied meaning. It doesn't state anywhere that it automatically changes with the times. It is not a living, breathing document because we can exercise common sense and change its meaning. It is a living, breathing document because we can amend it anytime we want according to article 5. It's a written document that has the same meaning today as when it was written.

The Constitution was written simply and clearly. It is a legal document signed by the first state representatives and the legislatures of *every* state that has joined the Union since that time. This book emphasizes what it actually says. Although it was written over two hundred years ago using archaic terminology, there is no real ambiguity about the meaning of the text. Read it for yourself and *you* decide what it means.

### ***Neither federal, state, nor local laws overwrite the US Constitution.***

Here are several quotes that make the point very well:

*"The Constitution is a written instrument. As such, its meaning does not alter. That which it meant when it was adopted, it means now". —South Carolina v. United States, 199 U.S. 437, 448 (1905).*

*"The Constitution was written to be understood by the voters; its words and phrases were used in their normal and ordinary, as distinguished from technical meaning; where the intention is clear, there is no room for construction, and no excuse for interpolation or addition". —Cooley's Constitutional Limitations, Second ed., p. 61, 70.*

*"It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood". —James Madison*

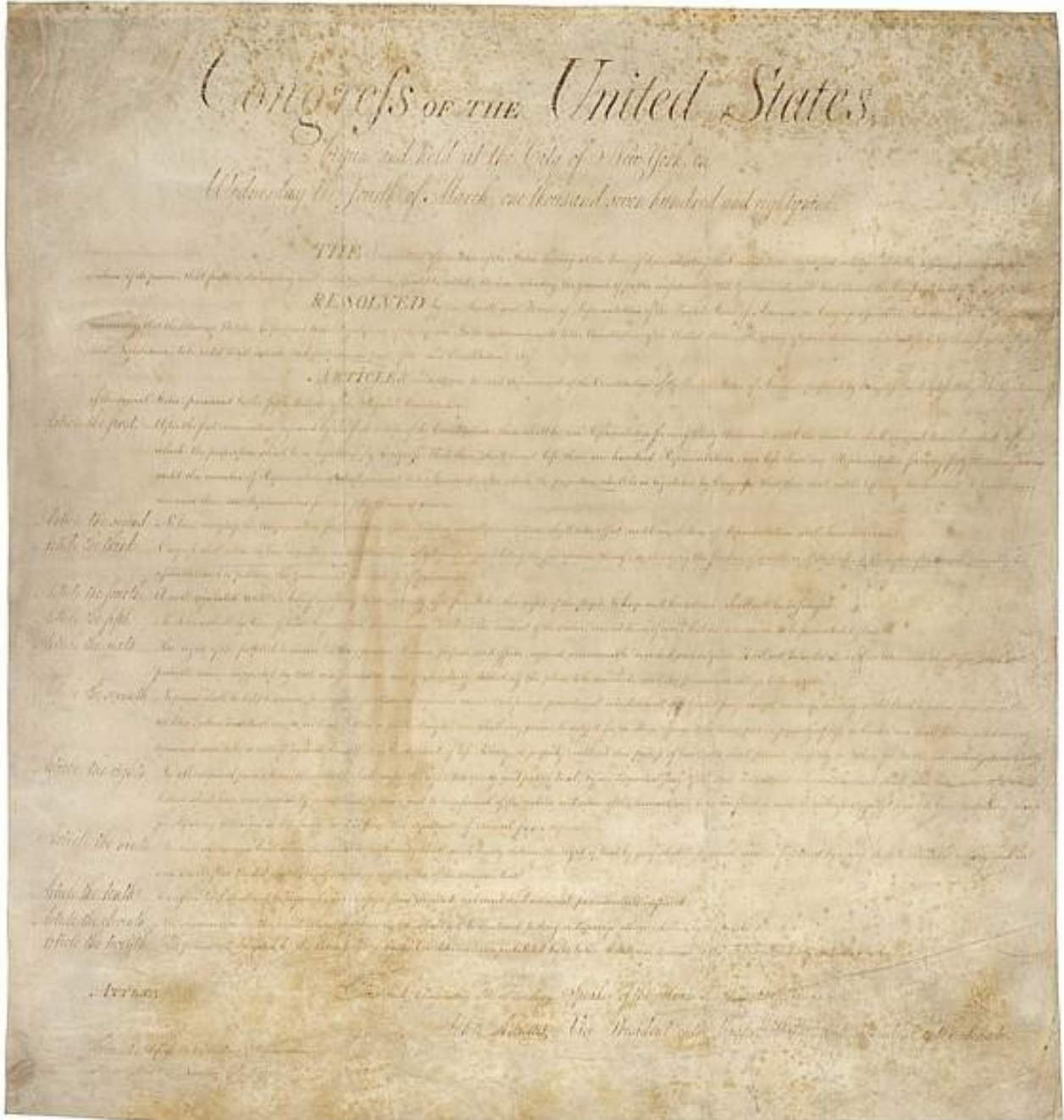
One more point that should be stressed due to its use in constitutional discussions. The creation of the US Constitution was based on English Common Law. But an important distinction that should be emphasized is that it is an *American* document, that applied *some* principles from English Common Law, it did not *adopt* English Common Law. The concepts of English Common Law were used as a basis for the Constitution, they are not *included* in it. **English** Common Law is *not* United States law.

This writing is organized with the Bill of Rights first, then the Constitution, and last, the Amendments. I began with the Bill of Rights, instead of a temporal format, because each amendment is overwhelmingly simple and easy to understand. Any writing concerning law can be inherently boring, and the Bill of Rights is arguably the single most important part of the US Constitution. Hopefully, it will be easy to read at your own pace, and easy to move from one section to another as your interests change. When you see an item in the news, go to the section of the Constitution that applies and refresh your memory.

Don Thayer

# The Bill of Rights

Ratified December 15, 1791



## ***The Preamble to the Bill of Rights***

*“Congress of the United States begun and held at the City of New-York, on Wednesday the fourth of March, one thousand seven hundred and eighty nine.*

*THE Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution.*

*RESOLVED by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following Articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all, or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution; viz.*

*ARTICLES in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution”.*

The key part of the Preamble is paragraph two. The purpose and intent of the Constitution has been debated for decades. The Preamble states very clearly that the States, “*expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added*”. The Bill of Rights was intended to prevent the abuse of the powers being delegated here. The next sentence, “*as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution,*” makes it clear that “*restrictive clauses*” applies to government. It does not specifically state federal government or state government, it says “*government*”. As written, all levels of government are restricted by the Bill of Rights.



## ***The First 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”.*

The First Amendment in the Bill of Rights protects freedom of religion, speech, press, the right to assemble, and the right to petition government. It does not say “unless,” “if,” “except,” or use any other qualifier. But... it *does* exercise one distinction over the other amendments in the Bill of Rights. Where the others basically state “this shall not be done”, the First Amendment says *“Congress shall make no law”*. As written, these protections apply to the national legislature – Congress. It can be reasonably argued that the states have some flexibility.

Read the actual text, it’s really pretty simple.

The clause *“Congress shall make no law respecting”* applies to each section of the First Amendment: *“establishment of religion; freedom of speech, or of the press; of the people peaceably to assemble”*.

Regarding religion, *“Congress shall make no law . . . prohibiting the free exercise thereof”*. We can establish and practice any religion we want.

Let’s look at the freedom of speech clause: *“Congress shall make no law . . . abridging the freedom of speech, or of the press”*. The most common use of “abridge” today is “to shorten,” usually related to literature. One archaic definition is “deprive”. Regardless of original intent, it’s fairly clear that “we the people” have freedom of speech, and of the press, without qualifiers.

How about the *“the right of the people to peaceably assemble”*? Are there limitations included in this clause? As written, we can *“peaceably assemble”* anytime we want, without asking for permission, without paying a fee. The only qualifier here is “peaceably”.

And last, we have the right *“to petition the government”*. *“Congress shall make no law respecting”* this right.

These rights can be changed anytime we want, through the process described in article 5 of the US Constitution. We can relinquish or amend these rights, but until we do so, these rights are written into law. Legislation does not overwrite the US Constitution, nor does a fifty-one percent majority of the people, nor does supposed “common sense” or necessity.

Here are quotes from several of the founders:

"If the freedom of speech is taken away, then dumb and silent we may be led, like sheep to the slaughter". —George Washington

"Our liberty depends on the freedom of the press, and that cannot be limited without being lost".  
—Thomas Jefferson

## ***The Second 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".*

The Second Amendment says a well regulated militia is necessary, and it seems to be pretty clear that this is the reason that the people shall be allowed to *"keep and bear arms"*. But it does *not* say it only applies until a militia is no longer needed, nor does it say arms can be *restricted*. Remember, we have Article 5 to make changes when we feel it's necessary.

This is the *only* statement in the US Constitution about guns. Neither Federal, State, nor local laws overwrite it. The militia isn't defined here, but its use was originally defined in the 1st session of Congress, Chapter 28, Section 1, also known as the Militia Act Of May 2, 1792, and membership was defined in Chapter 33, Section 1, also known as the Militia Act Of May 8, 1792. The militia is currently composed of:

*"every able-bodied male citizen of the respective States, Territories, and the District of Columbia, and every able-bodied male of foreign birth who has declared his intention to become a citizen, who is more than eighteen and less than forty-five years of age" - The Militia Act of 1903, Section 1, also known as the "Dick Act", named after Senator Charles W. F. Dick as well as inclusions added since 1903.*

Here's how some of the founders felt about the Second Amendment:

*"What is the militia? It is the whole people. To disarm the people is the best and most effectual way to enslave them".* George Mason

*"The very atmosphere of firearms anywhere and everywhere restrains evil interference - they*

*deserve a place of honor with all that's good". - George Washington*

*"A well regulated militia, composed of the body of the people, trained in arms, is the best most natural defense of a free country". and "The Constitution preserves the advantage of being armed which Americans possess over the people of almost every other nation where the governments are afraid to trust the people with arms". - James Madison*

*"The strongest reason for the people to retain the right to keep and bear arms is, as a last resort, to protect themselves against tyranny in government". - Thomas Jefferson*

A common argument from gun control advocates is that a "well regulated militia" includes gun control. I agree. But it *doesn't* mean restricting the "right of the people to keep and bear arms". The Second Amendment specifically protects that right. Regulation is spelled out in the Militia Act Of May, 1792. Contrary to the beliefs of gun control advocates, the Act of 1792 required militia members to be armed (including with a sufficient bayonet - a military component), and defined how they were to be "*armed and accoutred*". They were also required to appear properly armed when "*called out to exercise or into service*". The Militia Act Of 1903 reiterated the definition of the militia, with the main difference being that the Act of 1792 stated "every free able-bodied white male citizen", while the Act of 1903 stated "every able-bodied male citizen". The Militia Act Of 1903 also required the government to issue modern military arms to citizens when called up for duty.

Over the years the definition of the militia has been amended to include additional groups of Americans, including "*female citizens of the United States who are commissioned officers of the National Guard*", and former military men up to sixty-four years old. Federal Statutes also specify the "Organized Militia", versus using the more general term of "militia", which is defined as the Unorganized Militia, when defining the law.

Here are some common arguments in favor of gun control:

- The courts have already decided that laws restricting ownership of certain weapons is Constitutional, therefore the argument is settled.

Has every court in the U S made or agreed with this decision? No. The Bill of Rights, later Amendments, and the Constitution apply equally across all levels of government, in all states, and to all Americans. The judiciary of one state doesn't take precedence over that of another. One state's judiciary cannot reasonably interpret the Constitution differently than another. The same applies to Federal Court Districts.

The courts have been wrong before. Previous opinions have been over-turned by later courts.

Ultimately, and most importantly, the Second Amendment still says *shall not be infringed*". A court's decision does not change that.

- Legal precedence has determined gun ownership can be restricted.

Legal precedence is *not* mentioned in the US Constitution. *Only* Congress or the state legislatures can create law. Although we've learned to accept the decisions of the courts, they can *not* make law. If there is no law addressing the issue, it's a matter for Congress or the Legislatures, *not* the courts.

*"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". - Article 1, Section 1, US Constitution*

- The Second Amendment also mentions the Militia, and was intended to protect gun ownership for Militia members only.

The Second Amendment states specifically the "*right of the people*" not the right of Militia members, or even the right of all male citizens, as was written in other areas.

- Common sense dictates we must do something to protect the people.

Common sense doesn't overwrite the US Constitution. We were given a process to amend it.

- We can't have unlimited gun ownership, there must be reasonable restrictions.

I agree. As written, the Second Amendment allows unrestricted ownership of all arms. Amend it.

- We can't allow violent felons to own guns.

Once again, I agree. Amend the Constitution.

Let's clarify one more issue. Gun control advocates like to state "the government isn't coming to take your guns". Well, banning only assault rifles, or only concealed carry, is taking some of our guns, and restricting the "*right... to keep and bear arms*" Slowly restricting gun ownership over a long period of time, *is* restricting gun ownership. This is not a complex argument that only Constitutional scholars can understand. We can make any changes we want – restrict gun ownership for felons, require background checks – anything. Simply amend the US Constitution to allow each state to create its own gun legislation. The only way to change "*the right of the people to keep and bear Arms*" is to amend the Constitution according to Article 5.

### ***The Third 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".*

I think it's fair to say the Third Amendment doesn't really apply today, unless things change pretty dramatically, but read it anyway. The military can't use our homes in a time of peace without our permission, but it can use our homes in a time of war, and the government *can* create their own rules regarding that situation.

### ***The Fourth 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".*

The Fourth amendment of the Bill of Rights protects our right to privacy and personal security. It specifically bans the government from entering our homes and from invading our privacy without permission, which *must* be based on *specific* information attested to under oath. As written, it doesn't apply only to the federal government, it states the right to be secure "shall not be violated".

Look at the requirements stated for a warrant to be issued. It requires more than *just* probable cause. There are multiple requirements. A warrant can only be issued upon “*probable cause*” - which must be supported by “*oath or affirmation*” - and “*particularly describing the place*” and “*the persons or things to be seized*”.

Law enforcement can't simply invade your privacy because of “common sense” or supposed necessity, or even because a court approves it. They must have a warrant supported by probable cause, which itself is “*supported by oath or affirmation,*” and they can't blindly search until they find something, they must search for a *specific item in a specific place*. Read the details of the Fourth Amendment—“*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*”.

Legislation doesn't overwrite or amend the US Constitution. Only the process defined in article 5 can do that. Neither does the will of fifty-one percent of the people, the judiciary, “common sense” or supposed necessity.

One more comment on the history of the Fourth Amendment: It has been argued that it originally only applied to the federal government, and in 1961, the US Supreme Court decided, in *Mapp v. Ohio*, that it also applies to the states. Neither the Preamble, nor the 4th amendment itself, mentions any level of government. It simply states the people have the right to be “*secure in their persons, houses, papers, and effects*”.

The founders understood:

*“They who can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety.” —Benjamin Franklin*

*“I believe there are more instances of the abridgement of freedom of the people by gradual and silent encroachments by those in power than by violent and sudden usurpations.” —James Madison*

*“Those who desire to give up freedom in order to gain security will not have, nor do they deserve, either one.” —Thomas Jefferson*

## ***The Fifth 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 offense 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”.*

Here is another important legal protection for American citizens. A capital crime is one calling for punishment by death. No one can be prosecuted for a capital crime unless indicted by a grand jury, which is made up of citizens, the same as a standard jury. The members are presented evidence by a prosecutor, and jurors decide by majority if there is enough evidence to proceed with a court trial.

Military members are subject to military prosecution, so the grand jury doesn't apply in those cases.

The rest is pretty self-explanatory:

- We can't be tried twice for the same crime
- we can't be forced to testify against ourselves
- No punishment is allowed without following the rule of law.
- If private property is taken for public use, we must be compensated fairly.

## ***The Sixth 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 defense”.*

Once again, here are important legal protections, written in simple, easy-to-understand

language. We have the right to a speedy, public trial, no waiting for years, no secretive prosecution. Trials must be by jury, in the state where the crime was committed, and the accused must be informed of the charges. The accused must be allowed to confront and question the accuser, and be allowed a knowledgeable attorney.

### ***The Seventh 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”.*

The Seventh Amendment provides the right to a trial by a jury of our peers. A court, judge or law enforcement official can't simply determine guilt, based on emotion or previous experience. We cannot be retried because the prosecuting attorney doesn't like the outcome.

Once again, it's fairly simple language.

### ***The Eighth Amendment***

*“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted”.*

Here's another important legal protection, written simply and clearly:

- No excessive bail
- No excessive fines
- No cruel or unusual punishment

Of course, definitions here are open to interpretation. But truly excessive bail or fines should be easy to determine.



## ***The Ninth Amendment***

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

The Ninth Amendment of the Bill of Rights states that we have freedoms other than *only* those listed in the Constitution. Unlike the Tenth Amendment, which limits the federal government to only those powers that are delegated to it, the Ninth only says we have other rights, even though they are not enumerated. Our different levels of government cannot claim we don't have certain freedoms simply because they aren't specifically protected by the US Constitution.

## ***The Tenth 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".*

This is what it **says**. Until passage of the Bill of Rights, the US Constitution stated:

*"The Congress shall have Power 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".*

*Article 1, Section 8, Clause 1, US Constitution*

The Tenth Amendment is what truly limits federal power.

To "*provide for the . . . general welfare of the United States*" gives Congress power to pass any legislation they want, as long as they can argue that it is good for America. The Tenth Amendment limited Congress to *only* those powers listed in the Constitution, which are enumerated in article 1, section 8. These are the *only* powers of the federal government. All other legislation is reserved for the states or the people.

Here's an abbreviated list of federal powers:

- Raise taxes.
- Borrow money.
- Regulate commerce.
- Legislate immigration.
- Create money and regulate its value.
- Enforce punishment for counterfeiting.
- Establish post offices and roads.
- Promote science and the arts, allow patents and copyrights.
- Hold trials inferior to the Supreme Court.
- Define piracy and maritime laws.
- Declare war.
- Raise an army.
- Maintain a navy.
- Regulate land and naval forces.
- Call forth the militia to support the laws of the nation.
- Organize and regulate the militia.
- Exercise exclusive legislation over the seat of the federal government and federal property.
- Make laws for carrying out the constitutionally delegated federal powers.

The Tenth Amendment is written law. Until it is amended, this is what it says. It doesn't *really* mean the federal government can overwrite the Constitution because some of the people thinks it's important or necessary. Any additional legislation that we feel is necessary can be passed at the state level. We have a process, written into law in the US Constitution, that provides for changes - Article 5.



# ***The US Constitution***

Ratified March 4, 1789

# We the People

of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do hereby 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. 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.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and seven Years Citizenship of the United States, and who shall not, when elected, be seven Years an Inhabitant of that State in which he shall be chosen.

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 including 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 five Years, unless in the Interval a Reformation be made in the Enumeration. The Number of Representatives shall not exceed one for every thirty thousand Persons; but each State shall have at least one Representative, and the Electors in each State shall have the Qualification requisite for Electors of the most numerous Branch of the State Legislature.

Three fifths of the whole Number shall be qualified Electors, namely, seven Years of Age, and seven Years of Citizenship of the United States, and who shall have the usual Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

Section 3. The Electors in each State shall have the Qualification requisite for Electors of the most numerous Branch of the State Legislature, and shall be chosen in each State in the Manner which the Legislature thereof may direct.

They shall meet in one Place, which shall be in the City of New York, and they shall assemble on the first Monday in December, and continue their Session from Day to Day, unless adjourned by a majority of the Members present. They shall choose at their first Meeting, a Speaker, and a Clerk of the House; and they shall choose also a Speaker of the Senate, and a Clerk of the Senate, and they shall choose also a Speaker of the Court of Appeals, and a Clerk of the Court of Appeals.

The House of Representatives shall be assembled on the first Monday in December, and they shall assemble on the first Monday in December, and continue their Session from Day to Day, unless adjourned by a majority of the Members present.

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## ***The 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”.*

Pay particular attention to this statement. It has been argued that the details of the Preamble are a part of the Constitution, and therefore law. But what does it actually *say*?

It says “We the people, in order to form a more perfect union” establish this Constitution. It does *not* say “these statements are a part of the Constitution”. It says this is why we are creating this document. The individual parts of the Preamble are not law.

The Preamble cannot be used to pass general legislation that, in someone’s opinion:

- Forms a more perfect union
- Establishes justice
- Ensures domestic tranquility
- Provides for the common defense
- Promotes the general welfare
- Secures the blessings of liberty

These are all ambiguous statements with no definition, and they are the *reason* for creating the Constitution. Later in the Constitution, in **Article 1, Section 8**, powers are delegated to the government, and the Tenth Amendment clarifies that the federal government has *only* those powers, as well as others “*delegated*” in the Constitution. All other legislative powers are “*reserved to the States respectively, or to the people*”.

***Article 1***

***The Congress***

# **Article 1, Section 1**

Delegates legislative power to Congress

## **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.*

This is the clause that restricts the power of legislation to *only* Congress. The president cannot rule by decree. The judiciary cannot exercise precedent. *Only* Congress - meaning the House and the Senate - can create law. Legislation will not actually become law until the president signs it; therefore Congress must work with him or her to create workable regulations. But all legislative creation *must* begin with Congress, no one else.



# Article 1, Section 2

Delegates power to, and determines rules and requirements for, the House of Representatives

## Section 2

- **Clause 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.*

Clause 1 is a pretty simple statement. Representatives must be reelected every two years, by the people, not by electors, and they must meet constitutional requirements.

- **Clause 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.*

Once again, there is no real argument about the meaning of this clause. Representatives must be twenty-five years old, a US citizen for at least seven years, and live in the state that they represent.

- **Clause 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 chuse 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.*

Clause 3 is a little longer than the previous two, and uses archaic terminology, but is still fairly easy to understand. Representatives and taxes shall be decided according to the population. As written, the population for representative purposes is specifically defined as “free persons,” excluding Indians, and counting slaves as three-fifths of a person, but this clause has been amended by the Fourteenth Amendment, 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”.*

The next sentence—“The actual enumeration shall be made” —simply states that the number of representatives shall be determined within three years of the first Congress, and then every ten years according to law, which means according to the new population determined by the ten-year census.

Last, we have minimum and maximum requirements—“each State shall have at Least one Representative”—and “shall not exceed one for every thirty Thousand”.

The last part of the last sentence—“and until such enumeration is made”—is clearly applicable to the time period only, until the first census was completed. It doesn’t apply today. It determines the number of representatives for each state until the next two-year election.

- **Clause 4:** *When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.*

Clause 4 is, once again, clear and simple. When a representative resigns, retires, or leaves office for any reason, the governor of the state orders an election to be held. A writ is an official order to do something, so a writ of election is an order to hold an election.

- **Clause 5:** *The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.*

Clause 5 is clear and simple, but many of us misinterpret it. House members can choose their own speaker. That's pretty easy to understand. But does everyone understand what impeachment means?

Impeachment in the United States is basically the same as an indictment. It is a statement of charges. But it does not remove an official from office. The power to try and convict, and upon conviction, removal from office, belongs to the Senate, delegated by the Constitution in article 1, section 3, clause 6.

# Article 1, Section 3

Delegates power to, and determines rules and requirements, for the Senate

## Section 3

- **Clause 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.*

Clause 1 deals with the composition of the Senate:

Two senators per state, nice and easy to understand. They are chosen by the state legislatures (vs by the people). This clause has been amended by the Seventeenth Amendment—“*elected by the people thereof, for six years*”. Originally, senators were elected by the state representatives. Now they are elected directly by the people. And each senator shall have one vote.

- **Clause 2:** *Immediately after they shall be assembled in Consequence 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.*

This clause is a little more detailed, but still easy to understand.

At the first assembly, senators were to be divided in three classes, so that their elections could be separated into thirds over the six-year period. They hold power for six years, but the full Senate doesn't change in one election and retain their power and agenda for the whole period. Originally, the states (through their legislatures) could exercise their will every two years versus

six. Now, “we the people” do so.

When vacancies arise, the state legislature chooses a replacement, unless they are in recess, in which case the governor of the state appoints someone until the legislature comes back into session.

- **Clause 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.*

Here are the constitutional requirements to become a senator. You must be thirty years old, a US citizen for nine years, and live in the state that you represent.

- **Clause 4:** *The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.*

Clause 4 names the vice president of the United States as the president of the Senate, but he has no vote unless there is a tie vote on legislation.

- **Clause 5:** *The Senate shall chuse 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.*

The Senate gets to choose their own officers and a president pro tempore. Typically, though not required, this is the most senior member of the majority party, and his responsibility is to preside over Senate sessions when the vice president is absent.

- **Clause 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.*

Clause six of article 1 delegates the power to try impeachments, with conviction requiring a two-thirds majority. Once again, this is a clear, simple statement. If the president of the United

States is being tried, the chief justice of the Supreme Court presides over the proceedings.

- **Clause 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 7 seems to introduce a little bit of ambiguity regarding specifics.

It's clear that the only result of a conviction is removal from office and a prohibition against serving at the federal level again. But it also states that the person is still subject to trial and punishment under the law. I think it's a reasonable assumption to interpret this to mean the Senate cannot determine criminal guilt, but the US court system can.

# **Article 1, Section 4**

Deals with Congressional election and meetings requirements

## **Section 4**

- **Clause 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 chusing Senators.*

Clause 1 simply states that the individual state legislatures decide the rules for election of their national representatives. Congress still has authority to make changes to those rules except for the places those elections are held.

- **Clause 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.*

Another clear, simple statement—Congress *must* meet at least once a year.

# Article 1, Section 5

Covers the rules of the House and Senate

## Section 5

- **Clause 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.*

Here's another section that may lack clarity because of the archaic terminology, but it isn't really unreadable.

Each house—the House and the Senate—will determine if its members meet qualifications to serve.

A simple majority – a quorum - is necessary to actually conduct business, but members can discuss issues without a quorum.

Congress can also require members to return to the House and the Senate.

The rules are determined by each House.

- **Clause 2:** *Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.*

Clause 2 is another clear, simple statement. The House and the Senate may each create their own rules of order, rules of behavior, and actually expel a member with a two-thirds majority vote.

- **Clause 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.*



Clause 3 requires both the House and the Senate to keep records of their actions, *and* to publish those records occasionally. If they feel some records should be kept secret, they have authority to do so. And if one-fifth of representatives or senators who are present ask, the vote on an issue must be entered in the record.

- **Clause 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.*

Here's another nice, short statement. Neither the House nor the Senate can leave an active legislative session for more than three days without the consent of the other house. Additionally, they can't leave their regular place of business to discuss legislation. They must work at their normal location.

# **Article 1, Section 6**

Deals with Congressional compensation, privileges, and restrictions

## **Section 6**

- **Clause 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.*

Clause 1 of section 6 is still pretty simple. Congressional members are to be paid by the US Treasury for their services, the amount determined by law. Except for the specific instances mentioned, they cannot be arrested while in legislative session, or while traveling to and from work. The last statement is a little unclear, but it's unreasonable to think the intent is to deny citizens the right to question their representatives. You'll have to decide this one for yourselves.

- **Clause 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.*

This statement simply says congressmen cannot serve in another government position while they represent their constituents. And no other government official can concurrently serve as a representative or senator.

# Article 1, Section 7

Defines the requirements for creating legislation

## Section 7

- **Clause 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.*

Here's a very important distinction in the US Constitution. It's short, simple, and clear. All legislation authorizing the government to collect revenue *must* originate in the House of Representatives. The Senate can amend the bills they get from the House, but they cannot originate their own revenue-raising legislation. Senators have their own specific powers delegated later in the Constitution, but all revenue comes from the House.

- **Clause 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 that 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 (Sundays 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.*

Clause 2 is one of the longer sections of the Constitution but is still easy to understand.

No legislation can become law until it has passed both the House *and* the Senate, *and* been signed by the president. If the president doesn't agree with the bill, he returns it to the

*originating* house, with his objections, which are entered into the congressional record.

Now, here's a key part of this clause, with different specific requirements than legislation that gets approved the first time. If *both* houses—the House *and* the Senate—pass the legislation with a two-thirds vote from each, the bill becomes law without the president's signature. It must be reconsidered with his objections noted, *and* the votes must be recorded in the journals of both houses.

There is also a time limit for the president's signature imposed here, he can't simply ignore a bill that's been passed by Congress. If a bill has been sent to the president for his signature, and he doesn't sign it, or return it to the originating house within ten days (excluding Sundays) with objections noted, it becomes law without his signature.

- **Clause 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.*

This clause seems a little redundant, but it simply says that all legislation that has to be voted on must be presented to the president. It can't be voted on and then left to sit in Congress. Before it becomes law, it must be signed by the president, or passed, in spite of his objections, by both houses by a two-thirds vote.

# **Article 1, Section 8**

Defines the powers of the federal government

**Section 8 of Article 1** deserves some extra time and discussion. Each clause delegates a specific power to the *federal* government. The first clause begins with “*The Congress shall have Power To,*” and each clause adds an additional power of Congress. These powers apply only to the federal government, not the states.

The relevance of this section is in relation to the rest of the Constitution, as well as the Bill of Rights. The Tenth Amendment states, “*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*”. In other words, if the power is not specifically named as a United States power, it is reserved for the individual states or the people.

One of the points to this is that, in the Preamble, it states “*We the people . . . in order to form a more perfect union . . . promote the general Welfare*”. The general welfare statement, in particular, has been used to justify legislation. But as argued here earlier, the Preamble is the *reason* for creating the Constitution, and Amendment 10 nullifies any abuse or expansion of constitutional government power, and clarifies the specific powers of the federal government. If it is not delegated to the federal government, nor banned to the states, only the states have that power.

So with the addition of a few specific powers that are mentioned in other areas of the Constitution, article 1, section 8 delegates federal legislative authority. Here are the other United States powers:

The power to impeach—article 1, section 2, clause 5

The power to try impeachments and remove federal officials—article 1, section 3, clauses 6 and 7

Authority to remove congressional members—article 1, section 5, clause 2

## Section 8

- **Clause 1:** *The Congress shall have Power 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;*

Let's clarify the terminology here. We all know the definition of a tax. An impost is simply a tax, but specific to imports, while duties are taxes on both imports and exports. Excises are taxes on the manufacture, sale, or consumption of goods and services.

Here, Congress has been given the power to tax, to provide for the defense of the country, and pass general legislation. The only qualifier in this clause is that all taxes must be uniform.

But don't forget about the Bill of Rights and the later amendments. I think it's reasonable to assume the Tenth Amendment was written specifically to clarify statements like the following; "*To provide for the . . . general Welfare of the United States*" gives Congress free rein to pass any legislation they want. Authority to collect taxes, pay the debt, and provide for defense is clearly an actual power, but how do we define the general welfare clause?

The Tenth Amendment limits the United States government's power to only those powers that are delegated to it in the Constitution. I think it's reasonable to claim the "*general Welfare*" clause was overwritten by it, and no longer can be used to justify legislation.

- **Clause 2:** *To borrow Money on the credit of the United States;*

This is clear and simple. The government can borrow money on credit.

- **Clause 3:** *To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;*

Once again, this is fairly clear. The federal government can create rules of commerce, but specifically with foreign nations, between the states, and with Native American tribes. There is

some argument about the scope here, such as authority to regulate in-state commerce. But that's why we have article 5, the amendment process (discussed later), which gives "we the people" the option of clarifying and amending the Constitution.

- **Clause 4:** *To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;*

Clause 4, regarding the "*rule of naturalization*," has been argued by the states, claiming they are not banned from creating their own rules; therefore, they can pass their own supplemental legislation. But once again, look forward in time from the signing of the Constitution, to the Tenth Amendment. It says "*the powers not delegated to the United States by the Constitution*" are reserved to the states. But the "*rule of naturalization*" is delegated to the United States. If we feel the need to clarify, to also allow the states to legislate immigration, let's use article 5 of the Constitution to do so.

The next section regarding bankruptcies is clearly under federal authority, but the rules must be uniform "*throughout the United States*".

- **Clause 5:** *To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;*

Again, this is clear and simple. The United States government can create money and set its value, as well as setting the value of foreign money in relation to it, and create our own standard of weights and measures.

- **Clause 6:** *To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;*

Clause 6 gives Congress the authority to create laws regarding punishment for counterfeiting US money and securities.

- **Clause 7:** *To establish Post Offices and post Roads;*

There may be a little confusion interpreting the exact meaning here, but it's probably

insignificant. “*To establish Post Offices*” is clear, but does “*post roads*” mean to build roads or to “establish” postal roads? I think it can reasonably be interpreted as “to build roads”.

- **Clause 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;*

This clause can also be open to interpretation. Some may claim that the US government can promote any of the sciences and arts that the current Congress and president may support. But read it carefully. It specifies “*by securing for limited Times to Authors and Inventors,*” which clearly implies the promotion of science and the arts in relation to “*Writings and Discoveries,*” meaning copyrights and patents.

- **Clause 9:** *To constitute Tribunals inferior to the supreme Court;*

Here is another clear, simple statement delegating power. Congress can serve as a court, as long as it is inferior to the US Supreme Court.

- **Clause 10:** *To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations*

Clause 10 of the delegation of powers is certainly outdated, but it’s easy to understand and was relevant at the time. Congress can create legislation to punish piracy, which was a major problem at the time, and other violations of maritime law.

- **Clause 11:** *To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;*

There’s no lack of clarity regarding authority here, but some definition may be necessary. Congress can declare war and legislate the rules of prisoners of war. A “Letter of Marquee and Reprisal” was a government authorization for civilian sailing vessels to attack and capture enemy naval vessels for profit. Known as privateering, it was a cost-effective way to defend against enemy navies and piracy.



- **Clause 12:** *To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;*

Here, Congress is given authority to raise an army. The “*appropriation of money*” for no longer than two years is the exercise of control of that army by the people. The House of Representatives originates all spending bills, is elected every two years, and can only renew military funding for two years at a time.

- **Clause 13:** *To provide and maintain a Navy;*

Clause 13 delegates the power to create a navy.

- **Clause 14:** *To make Rules for the Government and Regulation of the land and naval Forces;*

Here, we've delegated the power to create rules and regulations regarding the army and navy.

- **Clause 15:** *To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;*

In clause 15, Congress can pass legislation to allow the use of the militia, but specifically for the purpose of enforcing federal law, and defending the Union. The president is the commander in chief of the military and the militias, and only he can call them up for duty.

- **Clause 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;*

This section provides for the organization and regulation of the militia, versus the army and navy, which was dealt with earlier. Congress can create regulations regarding the militia, but the individual states have the power to appoint officers and train the militias.

- **Clause 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, dock-Yards, and other needful Buildings;--And*

Congress has exclusive authority over the federal seat of government, Washington DC, as well as over all federal property within the individual states that has been purchased with the consent of those states.

- **Clause 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.*

Here, Congress is given the authority to pass any legislation that may be required to enforce the powers that have been delegated here in section 8, as well as those from other parts of the Constitution.

# **Article 1, Section 9**

Places limits on the powers of the federal government.

**Section 9 of article 1** also deserves some extra time and discussion, and it's probably the single most important section of the Constitution. Here, the people are protected from specific abuses, and restrictions are placed on the federal government.

## **Section 9**

***Clause 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.*

This is a bit odd, but apparently it applied at the time. Fairly simply, it says the states can allow any person they want to come into the state prior to 1808, but a maximum ten dollars import tax per person can be imposed. It seems to imply a federal tax, but it isn't really clear.

- ***Clause 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.*

Here's one of the big ones, the writ of habeas corpus. This means a person under arrest cannot be held indefinitely. The person must be brought before a court to determine the legality of holding him or her. The writ of habeas corpus actually orders the arresting person to produce the arrestee before a court and justify the detention, or release the person.

Let's be clear about a few issues here. The writ of habeas corpus *can* be suspended. It is *not* an inalienable right. It may be suspended anytime the public safety requires it, which can be very broadly interpreted. That's not to imply that its suspension is acceptable, just clarification.

- ***Clause 3:** No Bill of Attainder or ex post facto Law shall be passed.*

A bill of attainder was a determination of guilt without a trial. It was used in English Common

Law and allowed a person to be punished without a trial. Clause 3 is complemented by the previous section regarding the writ of habeas corpus, which guarantees the right to a fair trial. There is no room for misinterpretation here. Pay attention to the specific wording. It does not say the United States, or the Congress, shall not pass a “Bill of Attainder” law. It states *“no Bill of Attainder . . . Law shall be passed”*—period.

An ex post facto law is simply a retroactive law, one which makes an action illegal after that action has been committed. Once again, there is no lack of clarity here. *“No . . . ex post facto Law shall be passed”*—period.

- **Clause 4:** *No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.*

Clause 4 uses archaic terminology but is still clear and simple. A capitation tax is a tax upon a person. If it is to be enacted, it must be the same for everyone, *“in proportion to the Census”*. A census was required by article 1, section 2, clause 3.

- **Clause 5:** *No Tax or Duty shall be laid on articles exported from any State.*

This is pretty simple. The federal government cannot tax state exports. Article 1, section 8, clause 3, gives Congress the power to regulate commerce, but that simply means they can create rules regarding trade *“among the several states”*. They cannot tax that trade.

- **Clause 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.*

Here we have a protection of the individual states’ rights regarding commerce. Congress cannot create regulatory legislation that favors the ports of one state over another. The states’ vessels—wagons, ships, vehicles of the future—shall not be required to pay fees to conform to regulations in another state.

- **Clause 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.*

Clause 7 controls the use of money by the federal government. No one—Congress, the president, other federal officials—can spend money from the United States Treasury unless it has been authorized by Congress and signed by the president. And a record of expenditures must be made public occasionally.

- **Clause 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.*

In clause 8, the federal government is banned from giving titles of nobility—earl, duke, etc.—as was practiced in England at the time. And federal officials were banned from receiving the same from foreign states or officials.

This is also the section that restricts United States officials from accepting gifts, favors, or payments from foreign states without the approval of Congress.

# **Article 1, Section 10**

Places limits on the powers of the state governments.

## **Section 10**

- **Clause 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.*

Clause 1 of section 10 specifically bans the states from exercising powers that were previously delegated to the United States government.

The states cannot sign treaties or create alliances; that power is reserved for the Senate.

They can't grant Letters of Marque or Reprisal; only Congress can—article 1, section 8, clause 11.

States can't create their own money. Congress was delegated that authority in article 1, section 8, clause 5.

The states can't issue debt or promissory notes based on their creditworthiness - "emit Bills of Credit".

States can only allow gold and silver coins to be used as money.

No 'Bill of Attainder' or "ex post facto" law can be passed by the states, the same as applies to the federal government.

Contracts must be honored as written and signed.

As it applies to the United States government, the states cannot grant titles of nobility.

- **Clause 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 it's 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 Controul of the Congress.*

An impost is simply a tax, but specific to imports. Duties are taxes on both imports and exports.

Unless Congress gives special permission, the states cannot charge taxes on imports and exports except for the costs of that state's inspections laws. Any net proceeds left over from those costs must go to the US Treasury. The states can't simply use excess taxes to fill the general fund. Congress still has the power to revise the states' import and export laws.

- **Clause 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.*

Here again, we have the states specifically restricted from exercising powers that have been previously delegated to the federal government. Unless Congress authorizes it, the states can't do the following:

Tax any tonnage, which is specific to shipping.

Keep regular troops or warships in peacetime.

Enter treaties with another state or a foreign country.

Engage in war unless they are actually invaded, or will be before Congress can authorize a defense.

***Article 2***  
***The Presidency***



# Article 2 Section 1

The qualifications and election of the President

## Section 1

- **Clause 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*

The power of administration—the executive power—is given to one person, with the title of president. He holds the office for four-year terms, along with a vice president, and they are both elected according to the rules stated next.

- **Clause 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.*

The state legislatures create their own rules for choosing electors, which must be the same number as the state's representatives and senators combined. No person holding a federal office can be an elector.

- **Clause 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 chuse 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 chuse the President. But in chusing 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. 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 chuse from them by Ballot the Vice President.*

Clause 3 is a bit long, but it describes the original election process. This was modified by the Twelfth Amendment.

Originally, the electors met in their own states and voted for two candidates on the list. They recorded the candidates' names and the votes for each, and sent it to the president of the Senate. The records were opened in the presence of both houses of Congress, and the votes counted publicly. The person with the most votes became president, the person with the second-highest vote count became vice president. If there was a tie vote for president, the House voted to choose between the top two.

Earlier in the Constitution, in **Article 1, Section 5, Clause 1**, a quorum to conduct business was defined as a simple majority. This clause specifies that, for the purpose of choosing the president in the case of a tie vote among the electors, a quorum is at least one congressman from two-thirds of the states, and a simple majority of all the states, not just those present, is necessary to decide. But to clarify further, there is only one vote per state, not one vote per representative—“*the Representation from each State having one Vote,*” not the representatives from each state.

For the sake of history, read the last section of the last paragraph closely. Unless there is also a tie vote for the second-highest number of votes, in which case the Senate chooses, the person with the “*greatest Number of Votes of the Electors*” after the presidential vote becomes vice president.

The **Twelfth Amendment** amended this section by requiring one vote for president, and a

second vote for vice president.

- **Clause 4:** *The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.*

Here, Congress, not the individual states' legislatures, is given the authority to decide the time for the states to choose their electors. They also choose a national election day, which must be the same for all states.

- **Clause 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.*

These are the requirements to be president:

Must be a **natural-born** US citizen

At least thirty-five years old

A resident of the US for at least fourteen years

- 
- **Clause 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.*

Clause 6 deals with the replacement of the president if necessary.

If he is removed from office, dies or resigns, or is unable to perform his duties for any reason,

the vice president takes over his responsibilities.

The language in the latter part of this paragraph is written archaically, but it's pretty clear that it authorizes Congress to enact legislation to choose who serves if both offices are vacated. They don't have the power to simply vote for a replacement when the need arises. It must be mandated by law.

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- **Clause 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.*

This is pretty simple. The president is to be paid for his time and service, but the wages are set for the full term, with no increase, and it is the only compensation allowed. "Emolument" is a term used to encompass all forms of profit—salary, fees, rewards, etc.

- **Clause 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".*

This is the presidential oath of office. The president *must* swear to this oath before taking office.

# Article 2 Section 2

The powers and authority of the Presidency

## Section 2

- **Clause 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.*

Section two delegates the executive power of the presidency. Clause 1 defines his leadership position.

The president is the top military officer in the country, commander in chief of the army, navy, *and* the militias when they are called into service. But to be clear, it states “*of the Militia of the several States, when called into the actual Service of the United States*”. It specifies *when* the president is commander in chief of the militias.

Department heads must report to the president when required.

The president has the power to grant pardons, but specifically for federal crimes, not state.

- **Clause 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.*

Here, the president can sign treaties, but only with the approval of two-thirds of the Senate. This power is also “*by and with the Advice and Consent of the Senate,*” not simply through a personal meeting between him and another foreign leader.

Also, “*by and with the Advice and Consent of the Senate,*” the president can make appointments to offices that are not directed elsewhere in the Constitution, *and* which are legislated by Congress. He can’t simply create a new position in the government and appoint someone to fill it. Departments must be created by law. Again, there are minor details here that can easily be missed, such as the last part of the clause. Congress still has authority to delegate the appointments of inferior employees to someone other than the president, or simply leave it for him.

- **Clause 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.*

This is another key section that has been debated within Congress and the judiciary. When the Senate is in recess, the president can appoint officials to fill a vacancy that occurred during that recess. The person only holds that position until the end of the next Senate session, which is defined as the period during which Congress carries out its regular business.

# Article 2 Section 3

The responsibilities of the President

## 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 three covers the constitutional requirement for the State of the Union address. Although it is traditionally given annually, the requirement is simply “*from time to time*”.

The president “*shall*” inform Congress on the state of the country and state recommendations. He also has the power to require Congress to meet during “*extraordinary Occasions*,” and if they can’t reach an agreement, they can be called back at his discretion.

The president is also *required* to meet ambassadors and other foreign officials. It says “*shall receive*,” not may receive. He is also required to enforce the laws of the country. And the last part gives him the duty of commissioning all military officers in the United States.

# **Article 2 Section 4**

Removal of the President

## **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.*

Section 4 *requires* the removal of the president and all other federal officials from office once they have been convicted of the crimes they were accused of. The impeachment is the accusation of crimes, determined by the House, and the Senate tries the person and actually decides guilt.



***Article 3***  
***The Judiciary***

# **Article 3 Section 1**

The scope of the courts.

## **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.*

Section 1 of article 3 states specifically that the judicial power of the federal government—the United States—is delegated to *one* supreme top-level court and additional lower courts if Congress feels they are necessary. The justices receive pay for their service, which can't be decreased during their tenure and may hold their offices "*during good behavior*" —they are impeachable.

# Article 3 Section 2

The authority of the courts

## Section 2

- **Clause 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.*

Clause 1 clarifies the scope of the judiciary's power. It covers the following:

All cases arising under the Constitution (equity includes any property with value)

United States laws and treaties

All issues with federal public officials

Cases concerning maritime laws and jurisdiction

Disputes that the United States is a party to

Disputes between two or more states, between a state and citizens of another state, or between citizens of different states

Issues arising between citizens of the same state, concerning lands within different states

Controversies between a state or the people of a state and a foreign country or person

The ***Eleventh Amendment*** modified this section and removed federal jurisdiction over suits between the states and citizens of another state, or citizens of a foreign country.

- ***Clause 2: In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be 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.***

Clause 2 clarifies the Supreme Court's jurisdiction, when they preside over issues.

If a federal official or a state is involved, they are the first and only court involved. In all other cases that were previously mentioned in clause 1, the US Supreme Court is an appellate court, unless Congress passes legislation to include other issues.

- ***Clause 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.***

This clause clarifies some of the details of trials. Unless it is a case of impeachment, it must be a trial by jury. If the crime was committed within a particular state, the trial must be held within that same state. If it was not committed in a state, in other words, on the seas (maritime law), or a foreign country, Congress may pass legislation detailing the location of the trial.

# Article 3 Section 3

The definition and punishment of treason

## Section 3

- **Clause 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.*

Clause 1 of section 3 specifically defines treason. There is *no* generic definition of it.

Treason is constitutionally defined as the following:

Waging war against the United States

Siding with our enemies and aiding them

This clause also clarifies the requirements for a treason conviction:

Two people must testify to the same *overt* act.

A confession in *open* court—no written confessions produced for the court at a later date.

- **Clause 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.*

Here, Congress is given authority to determine the punishment for treason, but they are limited to applying it to the accused person *only*.

An attainder is a declaration of guilt by a legislature. Congress can hold “*tribunals inferior to the Supreme Court*” according to article 1, section 8, clause 9. An attainder of treason is a

conviction for treason against the United States by Congress.

The term “Corruption of Blood” comes from English Common Law. It barred descendants from inheriting a convicted person’s property and belongings, which were taken by the authorities. Under the Constitution, conviction for treason does not affect anyone other than the person “attainted”—meaning accused—and only applies during that person’s life, it does not apply to relatives or descendants, or the property and belongings of the accused.

***Article 4***

***State and Citizen Rights***

## ***Article 4***

Deals with the legal rights and responsibilities of the states and citizens



# ***Article 4 Section 1***

States' responsibilities

## ***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.*

The states must each respect the laws and acts of the others. Congress can create—by *general laws*—how conflicts between the states are resolved. It specifically states “*by general Laws*” here, effectively preventing legislation biased towards any single state.

# Article 4 Section 2

Citizens rights and responsibilities

## Section 2

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

This statement simply says that all citizens are to be treated equally by all the states. If one particular state grants its citizens a special privilege, it must be applied to citizens of the other states.

- **Clause 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.*

Clause 2 requires the states to comply with extradition demands from the governor of another state when a person accused of treason or another crime is found there.

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

Once again, this deals with the concept of extradition, but regarding the person the labor is owed to instead of the state government and criminal prosecution.

The “*Person held to Service or Labour*” applied to indentured servitude as well as slavery. If the person escaped into another state, the laws of that state could not legally release the person’s servitude. That person must be returned to the contract holder upon his request.

This was amended by the Thirteenth Amendment, which states “*Neither slavery nor involuntary servitude... shall exist within the United States, or any place subject to their jurisdiction*”.

# **Article 4 Section 3**

The admittance of new states

## **Section 3**

- **Clause 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.*

Section 3, clause 1, authorizes Congress to admit new states into the Union, but with conditions. Unless approved by both the participating state legislatures and Congress, the following rules apply:

No new state can be formed within an existing state.

No new state can be formed by joining two existing states, or parts of states.

- **Clause 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.*

Clause 2 is clear and simple. Congress has the power to legislate all regulations regarding the property of the United States, and the Constitution should not be interpreted in a manner that is biased towards either the federal government or the individual states.

# Article 4 Section 4

Protections of the states

## 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.*

Here, all the states are guaranteed a Republican form of government, meaning a republic versus a true democracy. Each state is also guaranteed protection from invasion, and help with internal violence when requested.

There is a very important distinction in the US Constitution. It's difficult to accurately explain the difference, but one of the more significant aspects of the two systems is that a republic protects minority rights. In a true democracy, majority rules, the minority has no voice.

The best example of this is the Bill of Rights. In a republic, these rights belong to the people, regardless of the opinions of the majority 51 percent. They cannot be taken away. They are protected by law, until amended through the process defined in article 5. A majority of the people cannot simply decide that these rights no longer apply. In a democracy, the majority 51 percent always decides. In other words, the majority today can decide one way, while a future majority can decide another. In the United States, the Bill of Rights is law, until three-quarters of the state legislatures, meaning an overwhelming *geographic* majority of the country, not just 51 percent of the *people*, approve changes to it.

A quick comparison of forms of government may be helpful here.

A monarchy is rule by one person, who creates all laws. The people have no voice. A new monarch creates new laws and overturns old ones.

An oligarchy is rule by a small group, which creates all laws. This form of government requires a majority of the group to change laws, but all rules are still decided by a small group, the people have no voice.

A democracy is majority rule, meaning 51 percent decides all laws. The laws can change regularly according to the opinions of the people. The minority has no voice. A

Constitution would not apply in a true democracy. The majority can change all rules at will.

A republic is rule by elected representatives, with written laws that apply to everyone. Here in the United States, the Constitution dictates the rules of legislation. They aren't simply created by the current 51 percent majority.

Another example of republican government is the application of the Constitution to state and local laws. Even if the local majority approves a new law, if it is not consistent with the Constitution, it can be invalidated.

To reiterate, in our republican form of government, the US Constitution guarantees certain rights to the people. These rights and protections can be changed, but not by a future 51 percent majority. The requirements for making changes to the Constitution are defined in article 5, in the next section.

## ***Article 5***

### ***The Amendment Process***

# Article 5

The process for amending the US 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; 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.*

The US Constitution does not automatically change with the times. Here, article 5 describes the *only* process that can change it.

There are two methods to **propose** amendments. Either Congress can propose an amendment with two-thirds of both the House **and** the Senate concurring, or two-thirds of the states' legislatures can call for a constitutional convention. In order for the amendment to pass, three-quarters of the state legislatures or state constitutional conventions must approve it. Congress itself cannot amend the Constitution, only the states can.

There are several qualifications included here:

No amendment made prior to 1808 can affect article 1, section 9, clauses 1 and 4.

No state can be deprived of its equal representation in the Senate without that state's consent.

Let me emphasize that 'we the people' can use this process without Congressional approval, through the state constitutional convention process. We don't need permission.

## ***Article 6***

### ***The Authority of the Constitution***



# Article 6

Defines the authority of the Constitution

- **Clause 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.*

Clause 1 of article 6 simply states that all debts and commitments that were accepted under the prior Articles of Confederation are still valid under the new Constitution.

- **Clause 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, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.*

Clause 2 reiterates that the Constitution, all United States laws passed in accordance with it, and all treaties which are signed under its authority, are the ultimate law of the land. All judges in every state are bound by these laws, and the states' laws are subordinate to the Constitution.

An important point must be emphasized here. It has been argued that the Constitution is really only a set of guidelines for creating legislation; that it should be interpreted according to "original intent"; that there are times when it must be "interpreted" (by the Supreme Court, etc) due to a lack of clarity. But here in Article 6 – which became law when this document was ratified – it states explicitly that this Constitution is the "Supreme Law of the Land". This statement is very clear and all-encompassing. This Constitution is not simply a set of guidelines. Article 6 covers both federal and state legislation, as well as treaties (all must comply with the Constitution). Judges can *not* exercise "common sense" or discretion, there is no provision for "Precedence", they must apply the law - all *constitutional* legislation (not simply all legislation, but specifically legislation that complies with the Constitution) – regardless of the requirements of state Constitutions or legislation (the US Constitution dictates the creation of all legislation and takes precedence over all later legislation except amendments). Upon ratification according to the

rules in Article 7, this Constitution *is* the “Supreme Law of the Land”.

- **Clause 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.*

This is the section that requires public officials to take an oath to support the US Constitution. To be clear, it doesn't apply to all government employees, only legislative, executive, and judicial positions—the president and vice president, congressmen, judges, department heads, ambassadors, and state senators, assemblymen, and representatives.

It also specifies that religion shall not be considered as a qualification for any United States government position.

***Article 7***

***Ratification of the Constitution***

# Article 7

The requirements for ratification of the Constitution

- *The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.*

Article 7 of the Constitution is the requirement for ratification. Again, let's clarify. In order to accept the Constitution, only nine states need to sign it. It has been argued that three-quarters of the states were required for ratification, and with thirteen colonies, that would be ten states, since nine is less than three-quarters. But three-quarters is the requirement for amendments, not the original ratification.

*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,*

*Go: Washington -Presidt. and deputy from Virginia*

# ***Amendments 11 - 27***

*Ratified 1794–1992*

## **AMENDMENT 11**

*Passed by Congress March 4, 1794. Ratified February 7, 1795. Article III, section 2, of the Constitution was modified by amendment 11*

*“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”.*

The Eleventh Amendment amended article 3, section 2 of the Constitution, which defined the scope of the federal judicial power. Originally, it was written as *“shall extend to all Cases, in Law and Equity, arising under this Constitution”*. The rest of article 3, section 2 still applies, but here, issues between the states and a citizen of another state, or a citizen of a foreign country, is taken away from the federal judiciary. It's unclear, but presumably the state courts have jurisdiction.

## **AMENDMENT 12**

*Passed by Congress December 9, 1803. Ratified June 15, 1804. A portion of article II, section 1 of the Constitution was superseded by the Twelfth 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 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 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 the 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, and 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”.*

*Superseded by section 3 of the Twentieth Amendment.*

The Twelfth Amendment affected Clause 3 of article 2, section 1.

The first half of the first sentence, “*The Electors shall meet in their respective states*” is the same as article 2. But here, the electors vote once for the president, and vote separately for the vice president, instead of simply voting for two people, and awarding the presidency to the person with the most votes, and the vice presidency to the person with the second-highest vote count.

Again, the same as in Article 2, they make a list of the candidates and record the votes for each, but there are separate lists for each position. The records are sent to the president of the Senate, who opens the sealed votes and counts them in the presence of Congress. Another change here is that the winners must get a majority, not simply the highest vote count. If there is no majority—fifty-one percent of the electors—for one person, the House of Representatives votes for one of the top three presidential candidates. As earlier in Article 2, the state representation has one vote, not one vote per representative, and a majority of the states is required to choose a president. The definition of a quorum for this purpose is also the same.

Another difference here is the addition of an alternative if the House fails to choose a president by the next March 4. In that case, the vice president takes the position. The person who had the most votes for the vice presidency in the election assumes that position, again, as long as there is a majority vote. If not, the Senate votes for one of the top *two* candidates for vice president.

One last addition here is the last sentence, requiring the vice president to meet the same qualifications as the president.

The Twelfth was further modified by the Twentieth Amendment.

## **AMENDMENT 13**

*Passed by Congress January 31, 1865. Ratified December 6, 1865. A portion of article IV, section 2, of the Constitution was superseded by the Thirteenth 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.*

The Thirteenth is the first amendment that really changed things, the earlier ones dealt with fairly minor issues.

This is very clear and simple. There will be no slavery or servitude *anywhere* in the United States or US jurisdiction. Imprisonment for a crime was acceptable.

Congressional authority to pass additional legislation for enforcement was added here.

## **AMENDMENT 14**

*Passed by Congress June 13, 1866. Ratified July 9, 1868. Article I, section 2, of the Constitution was modified by section 2 of the Fourteenth amendment.*

The Fourteenth Amendment is fairly long and has been the subject of much discussion.

**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 1 simply states that all Americans are citizens of the United States and of the state they live in. The states cannot pass legislation or enforce laws that “*abridge*” the freedoms we have been guaranteed by the Constitution, or by federal law. No person can be deprived of “*life, liberty, or property*” without due process, and they must apply the laws equally to all people within their jurisdiction.



**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 2 amended article 1, section 2 of the Constitution, which counted “free persons,” but excluded untaxed Indians and counted non-free persons—slaves and indentured servants—as only three-fifths of a person when apportioning representatives. After the end of the Civil War, only untaxed Indians were directly excluded. Indirectly, it implied protection for males *only*, in the second sentence, where it addresses the denial of the right to vote to “*any of the male inhabitants of such State, being twenty-one years of age*”. The age clause here was changed by section 1 of the Twenty-sixth Amendment.

It also addresses the denial of the vote to those convicted of a crime or guilty of insurrection. In that case, representation is reduced in proportion to the number of *male* citizens involved, again, indirectly discriminating against women's rights.

**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.*

Here's another fairly lengthy section for the actual content of the statement, but it basically says that anyone who has taken an oath to defend the US Constitution, and has been involved in insurrection against the United States, or who has given aid and comfort to our enemies, cannot serve in any state or federal position. Congress may reinstate the right to serve with a two-thirds vote of both houses of Congress.

**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 4 is fairly easy to understand. All legal United States debt must be honored.

Additionally, no debt will be paid—by either the state or federal governments—for debt incurred in aid of rebellion against the United States, or for claims for the loss or freeing of a slave.

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

Here again, Congress is given the power to pass legislation necessary to enforce the Fourteenth Amendment.

## **AMENDMENT 15**

*Passed by Congress February 26, 1869. Ratified February 3, 1870.*

**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 the power to enforce this article by appropriate legislation.*

Amendment 15 is another clear, simple statement. The right to vote can't be denied due to race or previous servitude. Of course, this was in reference to former slaves but was written to apply to everyone.

Nothing was really amended here. The Fifteenth simply expands and clarifies protections for a specific group of American citizens.

## **AMENDMENT 16**

*Passed by Congress July 2, 1909. Ratified February 3, 1913. Article I, section 9, of the Constitution was modified by amendment 16.*

*“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”.*

The Sixteenth Amendment modified article 1, section 9, clause 4, which required all *direct taxes* to be “*in proportion to the census*”. After ratification, these particular “*direct taxes*” were in relation to income, not the population.

## **AMENDMENT 17**

*Passed by Congress May 13, 1912. Ratified April 8, 1913. Article I, section 3, of the Constitution was modified by the Seventeenth 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”.*

Here, the choosing of senators was changed from the votes of the state legislatures to direct election by the people. In addition, the electors must have the same qualifications as state representatives. When vacancies in the Senate arise, the state executive—the governor—must issue an order for a special election to fill the seat, although he may appoint someone temporarily if the state legislature authorizes it.

The last sentence states that the amendment doesn’t affect the election or term of any senator chosen before ratification.

Section 3 of article 1 was changed by the Seventeenth Amendment.

## **AMENDMENT 18**

*Passed by Congress December 18, 1917. Ratified January 16, 1919. Repealed by amendment 21.*

**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 from the date of the submission hereof to the States by the Congress.*

Amendment 18 is the only one that has been repealed. It should be well-known to everyone, as well as the Twenty-first, which overturned it.

All “*intoxicating liquors*” were outlawed one-year after ratification. No manufacture, sale, importation, or exportation was allowed.

Section 2 granted the power of legislative enforcement to the states as well as the federal government.

One last feature of the Eighteenth Amendment was the time limit for ratification—seven years from the “*date of the submission hereof to the States by the Congress*”.

This was repealed by the Twenty-first Amendment.

## **AMENDMENT 19**

*Passed by Congress June 4, 1919. Ratified August 18, 1920. Article 1, section 2, of the Constitution was modified by the Nineteenth 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”.*

The Nineteenth Amendment created voting rights for women. Prior to this, the states determined the “*manner of holding elections,*” and most of the states denied women the right to vote until the early 1900s.

An important detail should be pointed out here. The Fourteenth Amendment required the states to respect the rights of all American citizens, defined as “*all persons born or naturalized in the United States,*” not all men “*born or naturalized*”. It also required the states to apply “*equal protection of the laws*” to “*to any person within its jurisdiction*”. Yet the Nineteenth Amendment was required to truly force the states to do so.

Here again, Congress can create legislation for enforcement.

## **AMENDMENT 20**

*Passed by Congress March 2, 1932. Ratified January 23, 1933. Article I, section 4, of the Constitution was modified by section 2 of this amendment. In addition, a portion of the Twelfth amendment was superseded by section 3.*

The Twentieth Amendment is another fairly long one, and makes additional changes to the election of the president and vice president, as well as Congressional meeting requirements.

**Section 1.** *The terms of the President and the 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 1 is clear and easy to understand. It simply sets the times and dates for the new president, vice president, and congressmen to take office, and for those ending their terms to leave.

**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.*

Again, section 2 is clear and simple. Congress must meet at least once a year, and a recurring date is set, although Congress can change that date by law. To be clear, the date can't be changed according to Congress' power to create their own rules of order. It must be through legislation. This amends and clarifies article 1, section 4, clause 2.

**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 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 3 clarifies some of the wording in the Twelfth Amendment, which states “*then the Vice-President shall act as President*”. Here, it specifies the vice president-*elect*, where the Twelfth Amendment left it open to interpretation. And he serves until a new president is chosen. It also addresses other issues regarding the new president—failure to choose before the beginning of the new term, failure of the presidential choice to qualify according to the Constitution.

Additionally, if there is an instance where neither the president nor vice president qualify, Congress can pass legislation specifying the details of who shall serve, or how that person will be chosen, until a new president and vice president qualify to serve.

**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.*

Here, Congress is given the power to create legislation covering a situation involving the death of one of the candidates for president when the choice falls to the House. It also covers the candidates for vice president when that responsibility falls upon the Senate.

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

This section simply sets a date for part of these rules to take effect—sections 1 and 2, on the fifteenth of October following ratification.

**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.*

Section 6 is the time limit of seven years for passage of this amendment, as with the Eighteenth Amendment.

## **AMENDMENT 21**

*Passed by Congress February 20, 1933. Ratified December 5, 1933. Repealed the Eighteenth Amendment.*

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

No argument here—The Eighteenth Amendment is 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 2 clarifies that state laws still apply - “*in violation of the laws thereof*”. Only the federal law—the Eighteenth Amendment—is repealed.

**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”.*

Again, the time limit of seven years for ratification is applied here.

## **AMENDMENT 22**

*Passed by Congress March 21, 1947. Ratified February 27, 1951.*

**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 President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by 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.*

The Twenty-second Amendment term-limited the president to two terms and stipulated that a person who has served more than two years in a presidential replacement capacity can only serve one additional term. It clarifies that it doesn't apply to any person holding the Presidency at the time of the amendment's proposal. It also doesn't affect the remainder of the term of the president in office when the amendment becomes law.

**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.*

Here again, as in previous amendments, a time limit of seven years for ratification is applied.

## **AMENDMENT 23**

*Passed by Congress June 16, 1960. Ratified March 29, 1961.*

**Section 1.** *The District constituting the seat of Government of the United States shall appoint in such manner as 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, but 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.*

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

Here, Congress is given the power to legislate the specifics of electors for the District of Columbia, "the seat of Government of the United States". They have the same power and must



meet the same requirements as the state electors, and the number is determined the same as the states determine theirs, but the number of electors for Washington DC is limited to no more than the least populous state.

## **AMENDMENT 24**

*Passed by Congress August 27, 1962. Ratified January 23, 1964.*

**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 poll tax or other tax.*

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

Amendment 24 banned the use of a poll tax to deny the vote to American citizens. A poll tax was the same as a per head, or capitation, tax, and in US history, this was used to deny the right to vote to low-income groups of the time—African-Americans, Native Americans, foreigners, etc.

Section 2 gives Congress the power to create legislation to enforce these rules, as in earlier amendments. Notice they did not time-limit this amendment, the proposal was left in effect until ratification.

## **AMENDMENT 25**

*Passed by Congress July 6, 1965. Ratified February 10, 1967. Article II, section 1, of the Constitution was affected by the Twenty-fifth 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.*

This subject is becoming redundant in the amendments, but again, additional details are clarified here. Previous changes dealt with either the death of the president or a failure for Congress to make a choice when they were constitutionally required to do so. Section 1 of the Twenty-fifth Amendment adds the case of the president's removal from office or his inability to perform his duties. In that case, the vice president becomes 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 2 gives the president the power to choose a new vice president if the office is vacated, and the new person must be confirmed by a simple majority vote in both house 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.*

Here, when the president sends a written declaration to the leaders of both the House and the Senate that he is unable to perform his duties, the vice president takes over those responsibilities. To be clear, he doesn't become president. He simply performs the president's duties, until the president notifies Congress—in writing—that he is again capable of fulfilling his responsibilities.

**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”.*

This a bit long, but still understandable. In section 4 of the Twenty-fifth Amendment, an alternate method to remove the president due to an inability is provided. Congress may pass law further defining this process, but as written, the vice president *and* a majority of the heads of the president’s executive departments can send a written declaration to the leaders of both the House and the Senate that the president is unable to perform his duties, and the vice president becomes acting president. If this happens, the president can dispute the claim of his inability, by submitting his own declaration of ability to perform his duties—also in writing—to the congressional leaders. In that case, the vice president and leaders of the executive departments can, within four days, reply again that the president is unable to perform, and Congress must assemble within forty-eight hours to decide. They have twenty-one days to vote against the president by a two-thirds majority of both houses, or he retains office.

## **AMENDMENT 26**

*Passed by Congress March 23, 1971. Ratified July 1, 1971. Amendment 14, section 2, of the Constitution was modified by section 1 of the Twenty-sixth 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 power to enforce this article by appropriate legislation.*

The Twenty-sixth Amendment, for the third time, clarifies the right to vote for another group of American citizens—anyone over the age of eighteen. Section 2 of the Fourteenth Amendment was modified here.

Congress can also pass additional legislation to enforce these changes.

## **AMENDMENT 27**

*Originally proposed Sept. 25, 1789. Ratified May 7, 1992.*

*“No law, varying the compensation for the services of the Senators and Representatives, shall*

*take effect, until an election of representatives shall have intervened”.*

Look at the dates for the Twenty-seventh Amendment—proposed 1789, finally ratified 1992. This was the longest span between the two dates of all the amendments.

Again, this is clear and simple. No law changing the pay scale for Congressmen shall take effect until a new class of representatives has been elected. If they vote themselves a pay raise, it must also be approved by the new class.

# Epilogue

I understand that this has been a fairly long, boring slog through a mostly uninteresting subject, and I apologize. But now that we're finished reviewing the Constitution, there are a few very important points to make.

Go back and find the part that says these are "guidelines" only. Find the section that states the US Constitution is a flexible document that should be applied to the current circumstances. Look for the clause that states it should be interpreted according to original intent, or that delegates the power of "interpretation" to the Supreme Court. Go back to article 3 and find the area that creates the concept of "precedent" for the judiciary.

The US Constitution does *not* say any of these things. It is written law that can be changed any time "we the people" want. It does *not* automatically change with the times. It must be put to a vote. Only "we the people" can change the Constitution, Congress cannot. Our leaders should encourage us to make constitutional changes when they feel they are necessary, instead of passing legislation that overwrites it.

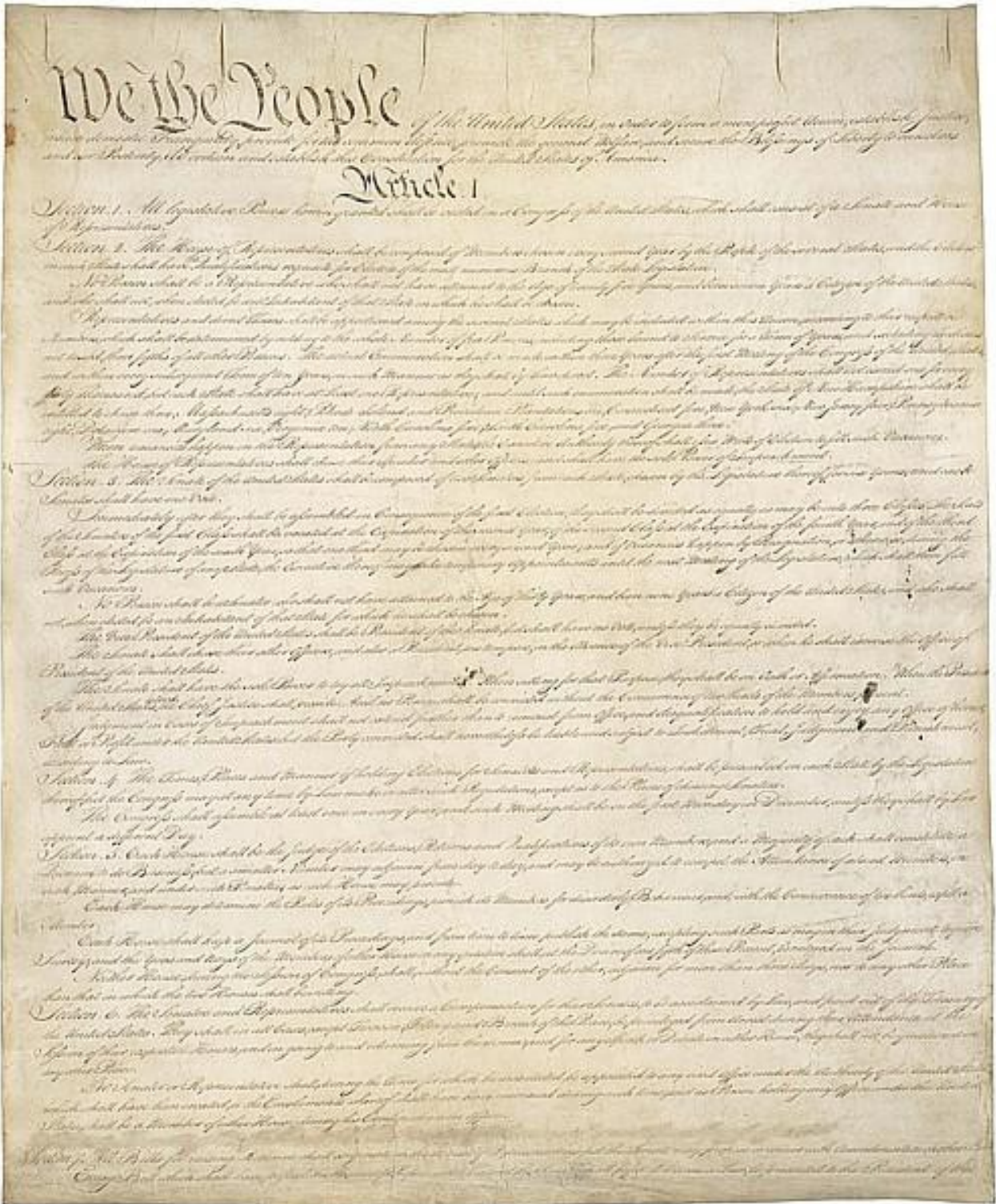
Several specific arguments should be addressed here. Some claim that since the framers based the US Constitution on some of the concepts in English Common Law, those concepts are incorporated in it—that English Common Law is actually legally binding in America. It is *not*. Regardless of the specific ideas or principles that inspired the Constitution, if it isn't written into the text, it is *not* a part of the Constitution.

It has also been argued that the intent of the founders should be considered when interpreting the Constitution. The Federalist Papers have often been quoted to justify legislation or the clarification of it. But, again, the Federalist Papers are *not* written into the Constitution. They were not legal documents. They were simply written opinions advocating for ratification of the Constitution. Original intent is impossible to apply—whose intent? How do we decide which of the founders' intent is to be followed, since they didn't all agree?

The US Constitution applies *as written*. If there are changes needed, make them according to the process outlined in article 5. Get the permission of three-quarters of the states, meaning the vast majority of the country (geographically).



# Images and Quotes











Congress may by general laws provide the manner in which such writs, returns and process may be served and the effect thereof.

Section 2. The Congress of each State shall be composed of all the persons and Commissioners appointed in the several States.

Section 3. The Congress shall be organized and convened at the City of New York, on the first day of January, and the first session shall be held on the first day of the month of September, and the Congress shall be held at such other places as shall be determined by the Congress.

Section 4. The Congress shall have the same powers and authority as the Congress of the United States, and shall have the same powers and authority as the Congress of the United States, and shall have the same powers and authority as the Congress of the United States.

### Article V.

The Congress shall propose amendments to this Constitution, or on the application of the Legislatures of two thirds of the several States, which shall be proposed by Congress, or on the application of the Legislatures of two thirds of the several States, which shall be proposed by Congress, or on the application of the Legislatures of two thirds of the several States, which shall be proposed by Congress.

### Article VI.

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.

The Senators and Representatives shall be sworn or affirmed, before they enter on their offices, that they will support this Constitution, and that they will discharge their duties as Senators and Representatives in conformity with the best of their conscience and understanding.

### 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 thirteenth.

That William McKim Secretary

Delaware	George Read Richard Bassett Jesse Hart	Virginia	George Mason James Madison
North Carolina	James Oglethorpe Richard Caswell John Motton	Georgia	William Few Luther Martin
South Carolina	John Rutledge Charles Cotesworth Pinckney Thomas Moultrie	Florida	James M. Smith John M. Smith
Massachusetts	John Hancock Samuel Adams James Bowdoin	Connecticut	Samuel Huntington Roger Sherman Oliver Ellsworth
New York	John Jay Alexander Hamilton John Adams	North Carolina	James Oglethorpe Richard Caswell John Motton
South Carolina	John Rutledge Charles Cotesworth Pinckney Thomas Moultrie	Georgia	William Few Luther Martin
Florida	James M. Smith John M. Smith	Connecticut	Samuel Huntington Roger Sherman Oliver Ellsworth



## ***The Men Who Signed the U S Constitution***

*Go: Washington - Presidt. and deputy from Virginia*

### **Connecticut**

- 1 *Wm. Saml. Johnson*
- 2 *Roger Sherman*

### **Delaware**

- *Geo: Read*
- *Gunning Bedford jun*
- *John Dickinson*
- *Richard Bassett*
- *Jaco: Broom*

### **Georgia**

- *William Few*
- *Abr Baldwin*

### **Maryland**

- *James McHenry*
- *Dan of St Thos. Jenifer*
- *Danl Carroll.*

### **Massachusetts**

- *Nathaniel Gorham*
- *Rufus King*

### **New Hampshire**

- *John Langdon*
- *Nicholas Gilman*

### **New Jersey**

- *Wil. Livingston*
- *David Brearley.*
- *Wm. Paterson.*
- *Jona: Dayton*

### **New York**

- *Alexander Hamilton*

### **North Carolina**

- *Wm Blount*
- *Richd. Dobbs Spaight.*
- *Hu Williamson*

### **Pennsylvania**

- *B Franklin*
- *Thomas Mifflin*
- *Robt Morris*
- *Geo. Clymer*
- *Thos. FitzSimons*
- *Jared Ingersoll*
- *James Wilson.*
- *Gouv Morris*

### **South Carolina**

- *J. Rutledge*
- *Charles Cotesworth Pinckney*
- *Charles Pinckney*
- *Pierce Butler*

### **Virginia**

- *John Blair*
- *James Madison Jr.*

## ***Quotes From the Founders***

### ***Nathan Hale***

"I only regret that I have but one life to give for my country".

### ***Patrick Henry***

"I know not what course others may take; but as for me, give me liberty or give me death!"

### ***George Washington***

"The power under the Constitution will always be in the people. It is intrusted for defined purposes, and for a certain limited period, to representatives of their own choosing; and, whenever it is executed contrary to their interest, or not agreeable to their wishes, their servants can and undoubtedly will be recalled".

"If the freedom of speech is taken away then dumb and silent we may be led, like sheep to the slaughter".

"Firearms stand next in importance to the Constitution itself. They are the American people's liberty teeth and keystone under independence. From the hour the Pilgrims landed, to the present day, events occurrences and tendencies prove that to ensure peace, security and happiness, the rifle and pistol are equally indispensable. The very atmosphere of firearms anywhere and everywhere restrains evil interference - they deserve a place of honor with all that's good".

"Government is not reason; it is not eloquent; it is force. Like fire, it is a dangerous servant and a fearful master".

"The time is near at hand which must determine whether Americans are to be free men or slaves".

### ***James Madison***

"The Constitution preserves the advantage of being armed which Americans possess over the people of almost every other nation where the governments are afraid to trust the people with arms".

"War should only be declared by the authority of The People, whose toils and treasures are to support its burdens, instead of the government which is to reap its fruits.

"The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite".

—Federalist #45

"A well regulated militia, composed of the body of the people, trained in arms, is the best most natural defense of a free country".

"If tyranny and oppression come to this land, it will be in the guise of fighting a foreign enemy".

"I believe there are more instances of the abridgement of freedom of the people by gradual and silent encroachments by those in power than by violent and sudden usurpations".

"It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood".

### **Thomas Jefferson**

"All tyranny needs to gain a foothold, is for people of good conscience to remain silent".

"A little rebellion now and again is a good thing".

"A government big enough to give you everything you want, is strong enough to take everything you have".

"The strongest reason for the people to retain the right to keep and bear arms is, as a last resort, to protect themselves against tyranny in government".

"Laws that forbid the carrying of arms...disarm only those who are neither inclined nor determined to commit crimes... Such laws make things worse for the assaulted and better for the assailants; they serve rather to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man".

"Freedom is lost gradually from an uninterested, uninformed, and uninvolved people"

"Our liberty depends on the freedom of the press, and that cannot be limited without being lost".  
- letter to Dr James Currie Jan 28, 1786

"Whenever the people are well informed, they can be trusted with their own government; that whenever things get so far wrong as to attract their notice, they may be relied on to set them to rights". - Letter to Richard Price, Jan 8, 1789

"The tree of liberty must be watered from time to time, with the blood of patriots and tyrants".

"You seem to consider the judges as the ultimate arbiters of all constitutional questions; a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy. Our judges are as honest as other men, and not more so. They have, with others, the same passions for party, for power, and the privilege of their corps.... Their power [is] the more dangerous as they are in office for life, and not responsible, as the other functionaries are, to the elective control. The Constitution has erected no such single tribunal, knowing that to whatever hands confided, with the corruptions of time and party, its members would become despots. It has more wisely made all the departments co-equal and co-sovereign within themselves".

"When the people fear their government, there is tyranny; when the government fears the people, there is liberty".

"I am not a friend to a very energetic government. It is always oppressive".

"I, however, place economy among the first and most important republican virtues, and public debt as the greatest of the dangers to be feared". - Letter to William Plumer, July 21, 1816

"I predict future happiness for Americans if they can prevent the government from wasting the labors of the people under the pretense of taking care of them".

"To compel a man to furnish funds for the propagation of ideas he disbelieves and abhors is sinful and tyrannical".

"The democracy will cease to exist when you take away from those who are willing to work and give to those who would not".

Don Lu