AMERICA'S FOUNDING DOCUMENTS IN PLAIN ENGLISH

THE CONSTITUTION OF THE UNITED STATES

in Plain English



SEVEN ARTICLES | CLAUSE BY CLAUSE | REVIEW QUESTIONS | TIMELINE

The Original Seven Articles, Explained Clause by Clause

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Enterprises

America's Founding Documents in Plain English

The Constitution of the United States in Plain English

The Original Seven Articles, Explained Clause by Clause

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The Constitution of the United States in Plain English: The Original Seven Articles, Explained Clause by Clause

Part of the series America's Founding Documents in Plain English.

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Chapter 1: A Summer in Philadelphia

The Constitution of the United States has been in force since 1789, and it's short. The Preamble and the original seven articles run about 4,300 words, counted from the National Archives transcription. You can read the whole thing in half an hour. Most Americans never have.

This book walks through those seven articles one clause at a time, in plain words. It covers the Constitution as it was signed in 1787. The 27 amendments added since then, including the Bill of Rights, have their own books in this series. Where an amendment later changed something in the original text, this book marks the words in [brackets] and tells you which amendment changed them.

Before we read the text, let's look at how it came to be written.

A Country in Trouble

By 1786 the United States was in rough shape. The national government under the Articles of Confederation couldn't tax, couldn't regulate trade, and couldn't make the states keep their promises. It was deep in debt. When armed farmers in western Massachusetts rose up in what became known as Shays' Rebellion, the national government could do nothing about it. If you've read the Articles of Confederation book in this series, you know the whole story.

In September 1786, commissioners from five states met in Annapolis, Maryland, and called for a convention in Philadelphia the next May. On February 21, 1787, Congress agreed. It called for a convention in Philadelphia "for the sole and express purpose of revising the Articles of Confederation."

The Delegates Gather

Twelve states sent delegates. Rhode Island refused to take part. In all, 74 delegates were appointed and 55 attended at some point during the summer. On May 25, 1787, they unanimously elected George Washington to preside over the Convention.

The delegates met in the Pennsylvania State House, the same building where the Declaration of Independence had been approved eleven years earlier. Today we call it Independence Hall. They agreed to keep their debates secret. No reporters or visitors were allowed. That let them change their minds and make deals without being attacked in the newspapers for every idea. Most of what we know about the debates comes from James Madison of Virginia, who kept detailed notes every day.

Starting Over

On May 29, Edmund Randolph of Virginia presented the Virginia Plan. The Virginia delegates had put it together in the days before the Convention, and it reflected ideas Madison had been working on for years. It didn't revise the Articles. It replaced them with a strong national government with three branches and a two-house legislature where the states' votes depended on their population.

The small states pushed back. On June 15, William Paterson of New Jersey laid out the New Jersey Plan, which kept one vote per state, as under the Articles. The Convention debated it for several days and voted it down.

With that vote, the Convention was on its way to designing a completely new government.

The Great Compromise

The biggest fight was over representation. Big states wanted votes based on population. Small states wanted every state equal. The Convention nearly broke up over it.

Roger Sherman and Oliver Ellsworth of Connecticut helped find the way out. On July 16, 1787, the Convention adopted a plan with two houses. In the House of Representatives, seats would be based on population. In the Senate, every state would be equal. It passed by a margin of one vote. We call it the Great Compromise, or the Connecticut Compromise. You can see it in Article I, Sections 2 and 3.

The Compromises Over Slavery

Here we have to be honest about something hard. The Convention also made deals about slavery, and they're written into the original text.

The first was about counting people. If House seats were based on population, should enslaved people count? Southern delegates wanted them counted, which would give their states more seats. Northern delegates objected. The Convention settled on counting "three fifths of all other Persons," a phrase that meant enslaved people. That's in Article I, Section 2.

The second was about the slave trade, meaning bringing enslaved people into the country from Africa. Under a bargain struck in August, Congress could not ban the trade for 20 years, until 1808. That's in Article I, Section 9, and Article V protected it from being amended before then.

The third required that a person "held to Service or Labour" who escaped to another state be returned. That's in Article IV, Section 2.

Notice that the Constitution never uses the word "slave" or "slavery." It uses phrases like "other Persons" and "Person held to Service or Labour." Historians have long argued over why, and whether these compromises were the price of union or a moral failure, or both. What isn't in dispute is that the Thirteenth, Fourteenth and Fifteenth Amendments, ratified after the Civil War, ended slavery and changed these parts of the Constitution. Chapters 3, 6 and 9 explain each clause.

Finishing the Work

In late July a five-man Committee of Detail turned the Convention's decisions into a first draft. The Convention spent August and early September going through it. On September 8 the Convention handed the draft to a Committee of Style. Gouverneur Morris of Pennsylvania was its chief writer. Years later he wrote that the Constitution "was written by the Fingers which wrote this letter." The committee's version, reported on September 12, opened with the words "We, the People of the United States."

On September 15 every state delegation present voted yes. On September 17, 1787, the delegates signed the Constitution. Thirty-nine men signed. Three delegates who were there refused: Edmund Randolph and George Mason of Virginia, and Elbridge Gerry of Massachusetts. Mason had complained that the plan had no bill of rights. Randolph and Gerry feared the all-or-nothing choice it gave the country would lead to confusion or worse.

The official copy on parchment was written out by hand by Jacob Shallus. That's the document you can see today at the National Archives in Washington, D.C.

The Fight Over Ratification

The Constitution would take effect once nine states ratified it in special conventions. The debate that followed was one of the great arguments in American history. Supporters were called Federalists. Opponents, called Anti-Federalists, feared that the new national government would swallow up the states and threaten the people's liberties, and they pointed out that it had no bill of rights.

To make the case, Alexander Hamilton, James Madison and John Jay wrote 85 newspaper essays, published from late 1787, that we now call The Federalist Papers. They're still read today as an explanation of what the Constitution was meant to do.

Delaware ratified first, on December 7, 1787. New Hampshire became the ninth state on June 21, 1788, which made the Constitution official among the states that had ratified. Virginia and New York, two big and important states, followed that summer, both by close votes and with proposed amendments. North Carolina waited until November 1789, and Rhode Island until May 29, 1790.

The new government was set to begin on the first Wednesday in March 1789, in New York City. George Washington became the first President.

The Bill of Rights

Several states ratified only after being promised that a bill of rights would be added. James Madison kept that promise. In the First Congress he pushed through a set of amendments, and on December 15, 1791, ten of them were ratified. We call them the Bill of Rights. They have their own book in this series.

In a Nutshell

- The Constitutional Convention met in Philadelphia from May to September 1787, with George Washington presiding and the debates kept secret.
- Instead of revising the Articles of Confederation, the delegates designed a new government.
- The Great Compromise gave states equal votes in the Senate and seats by population in the House.
- The original Constitution included compromises over slavery that later amendments changed.
- Thirty-nine delegates signed on September 17, 1787, and New Hampshire became the ninth state to ratify on June 21, 1788.
- The Bill of Rights was added in 1791, partly to keep a promise made during ratification.

Review Questions

1. Why did the Convention meet in 1787, and what was it officially supposed to do?
2. Which state did not send delegates?
3. What was the Great Compromise?
4. Name one place where the original Constitution dealt with slavery without using the word.
5. On what date was the Constitution signed, and how many men signed it?
6. How many states had to ratify the Constitution, and which state was the ninth?

Chapter 2: We the People

The Constitution opens with one sentence called the Preamble. It doesn't create any office or grant any power, but it tells you who is making the Constitution and why. Then come seven articles that build the whole government.

Before we read the Preamble, a word on how to read the original text in this book. It's printed exactly as the National Archives transcribes the signed parchment, with the original spelling, capitals and punctuation. You'll see "chuse" for choose, "defence" for defense, and "encreased" for increased. Those aren't mistakes in this book. Where the original used a long dash, this book prints two hyphens (--). Where a later amendment changed the words, they're in [brackets] with a note.

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.

> **In plain words:** *We, the people of the United States, make and set up this Constitution for the United States of America, so that we can form a better union, make sure there is justice, keep peace at home, defend the country together, support the well-being of everyone, and protect the blessings of freedom for ourselves and for the generations who come after us.*

"We the People of the United States"

Compare this to the Articles of Confederation, which began with the delegates of thirteen named states. The Constitution begins with the people. The idea from the Declaration of Independence, that governments get their just powers "from the consent of the governed," is right here at the start. The people are the ones setting up this government.

You might ask, "Why didn't it list the states?" The first draft did. The version the Convention received on August 6, 1787, began "We the people of the States of New Hampshire, Massachussetts, Rhode-Island and Providence Plantations," and went on to name all thirteen. The Committee of Style's version of September 12 changed it to "We, the People of the United States." Rhode Island hadn't even sent delegates, and nobody could yet say which states would ratify. Historians have argued over how much the change meant about whether the Constitution came from the people as a whole or from the people of each state.

The six goals

The Preamble lists six goals. Each one answers a problem the country had under the Articles.

- "A more perfect Union." Not a perfect union, but a better one than the league of friendship under the Articles.

- "Establish Justice." Set up fair laws and courts that treat people evenly, including a national court system the Articles never had.
- "Insure domestic Tranquility." Keep peace at home. Domestic means inside the country. Tranquility means calm. After Shays' Rebellion, this one was on everyone's mind.
- "Provide for the common defence." Protect the country from attack, together.
- "Promote the general Welfare." Support the well-being of the whole people. Welfare here means well-being, not a government benefit program.
- "Secure the Blessings of Liberty to ourselves and our Posterity." Protect freedom for us and for our descendants. Posterity means the generations who come after.

"Ordain and establish" means officially create and set up.

The Preamble states the Constitution's purposes. The actual powers of the government are spelled out in the articles that follow.

Three Big Ideas

Before we read the seven articles, it helps to know three big ideas that run through the whole thing.

Separation of powers

The Constitution divides the national government into three branches. Article I sets up Congress, which makes the laws. Article II sets up the President, who carries out the laws. Article III sets up the courts, which decide cases under the laws. Each branch has its own job and its own people.

Checks and balances

Each branch can limit the others. The President can veto a law, but Congress can override the veto. The President chooses judges and makes treaties, but the Senate must approve them. Congress can impeach and remove the President or a judge. Judges serve for life, so they can rule against the other branches without fear of losing their jobs. These are called checks and balances, and you'll see them all through Articles I, II and III.

James Madison explained the thinking in The Federalist, No. 51: "Ambition must be made to counteract ambition." In other words, give each branch both the motive and the means to resist the others, and no one branch can take over.

Federalism

The Constitution splits power between the national government and the state governments. The national government handles things the whole country shares, like war, foreign affairs, money and trade between the states. The states keep their own governments and handle most everyday matters. This division of power is called federalism. Article I lists what Congress can do and what the states can't do, and the Tenth Amendment, added in 1791, says the powers not given to the United States are kept by the states or the people.

How the Seven Articles Fit Together

Article	What it covers
I	Congress: who serves, how laws are made, and what Congress may and may not do. Also limits on the states.
II	The President and Vice President: how they're chosen and what the President does.
III	The courts: the Supreme Court and other federal courts, and the crime of treason.
IV	The states and each other: respect for each other's laws, new states, and protection of the states.
V	How to amend the Constitution.
VI	Old debts, the Constitution as supreme law, and oaths of office with no religious test.
VII	How the Constitution would be ratified.

Article I is by far the longest. The men who wrote it expected Congress to be the center of the new government, and they spent the most time on it. This book takes Article I in four chapters.

In a Nutshell

- The Preamble says the people of the United States are setting up this Constitution.
- It lists six goals: a more perfect union, justice, peace at home, common defense, the general welfare and liberty for us and our descendants.
- The Constitution separates power among three branches: Congress, the President and the courts.
- Checks and balances let each branch limit the others.
- Federalism divides power between the national government and the states.

Review Questions

1. Who does the Preamble say is making the Constitution?
2. Name three of the six goals in the Preamble.
3. What does "posterity" mean?
4. What are the three branches of government, and which article sets up each?
5. Give one example of checks and balances.
6. What is federalism?

Chapter 3: Article I, Part 1: Congress, the House and the Senate

Article I comes first for a reason. The men who wrote the Constitution expected Congress, the branch closest to the people, to be the heart of the new government. This chapter covers the first three sections of Article I. They set up Congress and describe its two parts: the House of Representatives and the Senate.

Section 1: All Lawmaking Power Goes to Congress

> 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.

> **In plain words:** *All the lawmaking powers given in this Constitution belong to a Congress of the United States, which has two parts: a Senate and a House of Representatives.*

"Legislative Powers" are the powers to make laws. "Vested" means placed in or given to. Notice two things.

First, only Congress makes federal laws. The President and the courts have important roles, but the power to write the laws belongs to Congress.

Second, notice the word "herein granted." Congress gets the lawmaking powers granted in this Constitution, not every power imaginable. That's federalism at work. Section 8 lists those powers.

Congress has two parts, or houses. A lawmaking body with two houses is called bicameral. The Articles of Confederation had one. Having two means every bill has to get past two different groups of lawmakers chosen in two different ways.

Section 2: The House of Representatives

> 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.

> **In plain words:** *The House of Representatives will be made up of members chosen every two years by the people of the states. The voters in each state must have the same qualifications as the voters for the larger house of that state's own legislature.*

This was a big change from the Articles. The people would elect the House directly. And because the whole House is elected every two years, it was designed to be the part of government closest to the people's wishes.

Who could vote? The Constitution didn't say directly. It left that to the states: whoever could vote for the bigger house of the state legislature could vote for the House of Representatives. Over time, amendments

changed that. The Fifteenth bars denying the vote because of race, the Nineteenth because of sex, the Twenty-fourth because of failure to pay a poll tax in federal elections, and the Twenty-sixth because of age for citizens 18 and older. Those amendments have their own books in this series.

> 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.

In plain words: *To be a Representative, a person must be at least 25 years old, must have been a United States citizen for at least seven years, and must live in the state they're elected from at the time of the election.*

These are the three qualifications for the House: age 25, seven years a citizen, and an inhabitant of the state. Notice the requirement is to live in the state, not the district. Today a federal law requires each state with more than one Representative to divide itself into that many districts, one member per district.

> [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.

The words in [brackets] were changed by the Fourteenth Amendment.

In plain words: *Seats in the House and direct taxes will be divided among the states according to their population. The population is figured by counting all free persons, including people bound to service for a set number of years, leaving out Indians who are not taxed, and adding three-fifths of all other persons. The actual count will be made within three years after Congress first meets, and every ten years after that, in whatever way Congress decides by law. There can be no more than one Representative for every 30,000 people, but every state gets at least one. Until the first count is made, New Hampshire gets three Representatives, 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.*

This paragraph does three things.

How seats are divided

Apportion means to divide up. House seats, and certain taxes, would be divided among the states by population. More people, more seats.

Then came the formula for counting people, and it's the hardest sentence in the original Constitution. Count all "free Persons." Include "those bound to Service for a Term of Years," meaning indentured servants. Leave out "Indians not taxed," meaning Native Americans living in their own nations, outside state government. Then add "three fifths of all other Persons."

"All other Persons" meant enslaved people. This is the three-fifths compromise you read about in Chapter 1. Southern states wanted enslaved people counted fully, which would have given them more seats. Northern delegates objected. The compromise counted each enslaved person as three-fifths of a person for seats and direct taxes. Enslaved people themselves, of course, could not vote.

The bracketed words were changed by Section 2 of the Fourteenth Amendment, ratified in 1868 after the Civil War, which counts "the whole number of persons in each State." The Amendments books explain it.

The census

"Enumeration" means counting. This is where the census comes from. The Constitution requires a count of the people every ten years, so House seats can be adjusted as the population changes. The first census law was signed on March 1, 1790. The count found 3,929,214 people.

How many Representatives

No more than one Representative for every 30,000 people, but every state gets at least one. Until the first census, the Constitution set the seats itself: 65 in all.

Today the House has 435 voting members. That number isn't in the Constitution. It was fixed by a 1929 law, the Permanent Apportionment Act, starting with the 1930 census. With today's population, each member represents far more than 30,000 people. The 30,000 figure is a floor on how small a district can be, not a requirement of how big.

> When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

In plain words: *When a seat from any state becomes empty, the governor of that state must call a special election to fill it.*

"The Executive Authority" of a state is its governor. A "Writ of Election" is the official order to hold an election. Because House members are supposed to be chosen by the people, a vacant House seat is filled by a special election, not by appointment.

> The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

In plain words: *The House of Representatives chooses its own Speaker and other officers, and only the House has the power of impeachment.*

The Speaker is the leader of the House, chosen by its members. The Constitution doesn't say the Speaker has to be a member of the House.

Impeachment is the first step in removing a federal official from office. Think of it like an indictment in a criminal case. The House brings the charges, and the Senate holds the trial (Section 3). Only the House can impeach.

Section 3: The Senate

> 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.

The words in [brackets] were changed by the Seventeenth Amendment.

In plain words: *The Senate of the United States will be made up of two Senators from each state, chosen by that state's legislature, for six-year terms, and each Senator gets one vote.*

Two Senators per state, no matter the state's size. That's the small states' half of the Great Compromise. Senators serve six years, three times as long as Representatives. The longer term was meant to make the Senate steadier and less swayed by the mood of the moment.

Notice the bracketed words. Originally, state legislatures chose Senators. The Seventeenth Amendment, ratified in 1913, changed that so the people of each state elect their Senators directly.

Also notice that "each Senator shall have one Vote." Under the Articles, each state had one vote. In the Senate, each Senator votes on his or her own, so two Senators from the same state can vote differently.

> 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.]

The words in [brackets] were changed by the Seventeenth Amendment.

In plain words: *As soon as the Senate first meets after the first election, its members will be divided as evenly as possible into three groups. The first group's seats end after two years, the second group's after four years, and the third group's after six years, so that one-third of the Senate is chosen every two years. And if a seat becomes empty because of resignation or any other reason while the state legislature is not in session, the governor may make a temporary appointment until the legislature meets and fills the seat.*

This clause staggers the Senate. Only one-third of the seats are up every two years. That means the Senate is never replaced all at once, which adds to its steadiness.

The bracketed part about filling vacancies was changed by the Seventeenth Amendment, which now lets the governor make a temporary appointment if the state legislature allows it, until the people fill the seat by election.

> 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.

In plain words: *To be a Senator, a person must be at least 30 years old, must have been a United States citizen for at least nine years, and must live in the state they're elected from at the time of the election.*

Compare the two houses: 25 and seven years for the House, 30 and nine years for the Senate. The founders wanted the Senate to be a little older and more experienced.

> The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

In plain words: *The Vice President of the United States is the President of the Senate but cannot vote unless the Senators are evenly split.*

This gives the Vice President a job when the President is healthy and in office: presiding over the Senate. The Vice President only votes to break a tie.

> 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.

In plain words: *The Senate chooses its other officers, including a President pro tempore to preside when the Vice President is absent or is serving as President.*

Pro tempore is Latin for "for the time being." The President pro tempore presides over the Senate when the Vice President isn't there.

> 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.

In plain words: *Only the Senate has the power to hold the trial in all impeachments. When doing so, Senators must be under oath or affirmation. When the President is on trial, the Chief Justice presides. No one may be convicted without the agreement of two-thirds of the Senators present.*

After the House impeaches, the Senate holds the trial. Senators act like jurors and must swear or affirm to be fair. An affirmation is a solemn promise for people who, for religious or personal reasons, prefer not to swear an oath. You'll see "Oath or Affirmation" several times in the Constitution.

When the President is on trial, the Chief Justice of the United States presides, not the Vice President, who would have an obvious interest in the outcome. Conviction takes two-thirds of the Senators present, a high bar on purpose.

How often has this happened? According to the Senate's own list, three presidents have been tried by the Senate: Andrew Johnson in 1868, Bill Clinton in 1999, and Donald Trump in 2020 and again in 2021. All were acquitted. The only officials the Senate has ever convicted are federal judges.

> 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.

> **In plain words:** *The punishment in impeachment cases goes no further than removal from office and a ban on holding any federal office of honor, trust or profit. But the person convicted can still be charged, tried, judged and punished in the regular courts according to law.*

Impeachment is about the job, not about prison. The Senate can remove someone from office and bar them from holding federal office again. That's all. But if the person also broke the law, they can still be prosecuted in an ordinary court. One process doesn't cancel the other.

In a Nutshell

- Section 1 gives all federal lawmaking power to a Congress with two houses.
- The House is elected by the people every two years; members must be 25, citizens for seven years, and live in their state.
- House seats are divided by population, counted in a census every ten years. The original three-fifths formula was changed by the Fourteenth Amendment.
- The House chooses its Speaker and alone can impeach.
- The Senate has two Senators per state for six-year staggered terms, originally chosen by state legislatures and now elected by the people under the Seventeenth Amendment.
- The Vice President presides over the Senate and votes only to break a tie. The Senate tries impeachments, and conviction takes two-thirds.

Review Questions

1. What does "bicameral" mean, and what are the two houses of Congress?
2. What are the qualifications to be a Representative? A Senator?
3. How often is the census taken, and why does the Constitution require it?
4. What was the three-fifths clause, and what later changed it?
5. Who chose Senators under the original Constitution, and who chooses them now?
6. What is the difference between the House's role and the Senate's role in impeachment?

Chapter 4: Article I, Part 2: How Congress Works and How a Bill Becomes a Law

Sections 4 through 7 of Article I are the rulebook for Congress. They cover elections, meetings, each house's own rules, members' pay and protections, and the most important process in the whole government: how a bill becomes a law.

Section 4: Elections and Meetings

> 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.

In plain words: *Each state's legislature decides the times, places and way of holding elections for Senators and Representatives. But Congress may pass laws at any time to make or change those rules, except for the places where Senators are chosen.*

The states run federal elections. That's why voting rules, ballots and polling places differ from state to state. But Congress has the final say if it chooses to set national rules. One example is the law setting a single national Election Day for Congress, the Tuesday after the first Monday in November in even-numbered years.

The exception, "except as to the Places of chusing Senators," made sense when state legislatures chose Senators. Congress couldn't tell a state legislature where to meet. Since the Seventeenth Amendment, Senators are elected by the people, so that exception matters much less today.

> 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.

The words in [brackets] were changed by the Twentieth Amendment.

In plain words: *Congress must meet at least once every year, and that meeting will be on the first Monday in December, unless Congress passes a law setting a different day.*

Under this rule, a newly elected Congress often didn't meet for over a year after its election. That long gap gave defeated members, called "lame ducks," months of power after losing. The Twentieth Amendment, ratified in 1933, moved the start of Congress's yearly meeting to January 3, as the bracketed note shows.

Section 5: Each House Runs Itself

> 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.

In plain words: *Each house judges the elections, election results and qualifications of its own members. A majority of each house is a quorum, which is the number needed to do business. A smaller number may adjourn from day to day and may be allowed to force absent members to attend, in whatever way and with whatever penalties each house decides.*

Each house is the judge of who its members are. If an election is disputed, the House or Senate itself has the final say on who gets the seat.

A quorum is the minimum number of members who must be present to do business. In each house it's a majority. This rule exists because of a problem under the Articles, where Congress often couldn't act because not enough states had delegates present. The second half lets a smaller group order absent members to show up.

> 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.

In plain words: *Each house may set its own rules, punish its members for disorderly behavior and, with the agreement of two-thirds, expel a member.*

Each house makes its own rules. The Senate's filibuster, for example, isn't in the Constitution. It grew out of the Senate's tradition of unlimited debate, and in 1917 the Senate adopted a rule, called cloture, that lets it vote to end debate.

Expelling a member, meaning throwing them out, takes a two-thirds vote. That's a high bar so that a majority can't just kick out members of the minority.

> 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.

In plain words: *Each house must keep a journal of what it does and publish it from time to time, except for parts it decides must be kept secret. If one-fifth of the members present want it, the yes and no votes of members on any question must be recorded in the journal.*

This carried over from the Articles. The public gets a record of what Congress does. And if one-fifth of the members ask, each member's vote is recorded by name, so voters can see how their own Representative or Senator voted.

> 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.

In plain words: *While Congress is in session, neither house may, without the other's consent, adjourn for more than three days or move to a different place than where the two houses are meeting.*

The two houses have to work together. One house can't leave town for weeks or move to another city and stop the other from getting anything done.

Section 6: Pay and Protections

> 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.

In plain words: *Senators and Representatives will be paid for their service in an amount set by law and paid out of the Treasury of the United States. In all cases except treason, felony and breach of the peace, they cannot be arrested while attending a session of their house or while going to or coming back from it. And they cannot be questioned anywhere else about any speech or debate in either house.*

Members of Congress are paid from the national treasury, unlike delegates under the Articles, who were paid by their states. Congress sets its own pay by law. The Twenty-seventh Amendment, ratified in 1992, says that a law changing members' pay can't take effect until after the next House election.

The next two protections came straight from the Articles of Confederation. Members can't be arrested on their way to or during a session, except for serious crimes. And under the Speech or Debate Clause, they can't be sued or prosecuted for what they say in Congress. The point is to let lawmakers do their jobs without being harassed.

> 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 encreased 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.

In plain words: *No Senator or Representative may, during the term they were elected to, be appointed to any federal office that was created, or whose pay was raised, during that term. And no one holding a federal office may be a member of either house while in that office.*

This is two rules in one.

The first keeps members from creating a cushy new job, or raising the pay of an existing one, and then getting appointed to it.

The second keeps the branches separate. You can't be a member of Congress and also hold a job in the executive branch, like a cabinet secretary, at the same time. That's different from the British system, where government ministers sit in Parliament. Here, a member of Congress who becomes a cabinet secretary has to resign from Congress.

Section 7: How a Bill Becomes a Law

> 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.

In plain words: *All bills for raising money through taxes must start in the House of Representatives, but the Senate may propose changes or agree to changes the same way it does with other bills.*

Remember "no taxation without representation"? This is its answer. Tax bills have to start in the House, the part of Congress the people elect directly every two years. The Senate can still amend them.

> 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.

In plain words: *Every bill that passes both the House and the Senate must go to the President before it becomes law. If the President approves, he signs it. If not, he sends it back, with his objections, to the house where it started. That house records the objections in its journal and reconsiders the bill. If two-thirds of that house then vote to pass it, it goes, with the objections, to the other house, which also reconsiders it. If two-thirds of that house also approve, it becomes law. In all such cases the votes in both houses are by yeas and nays, and each member's name and vote are recorded in each house's journal. If the President doesn't return a bill within ten days, not counting Sundays, after it's given to him, it becomes law as if he had signed it, unless Congress adjourns and keeps him from returning it. In that case it does not become law.*

This is the heart of how a law gets made. Let's take it step by step.

1. A bill must pass both the House and the Senate in the same form.

2. It goes to the President.
3. If the President signs it, it becomes law.
4. If the President objects, he sends it back to the house where it started, with his reasons. That's a veto.
5. Congress can override the veto. It takes two-thirds of each house, voting in turn. Every member's vote is recorded by name.
6. If the President does nothing for ten days, not counting Sundays, the bill becomes law without his signature.
7. But if Congress adjourns during those ten days, so the President can't send the bill back, and he hasn't signed it, the bill dies. That's called a pocket veto.

This is checks and balances in action. Congress writes the laws, but the President can veto them. The President can block a bill, but Congress can override him if two-thirds of both houses agree. Neither branch can make law alone over the strong objection of the other.

The Constitution doesn't mention the word "veto." It just describes how it works.

> 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.

> **In plain words:** *Every order, resolution or vote that needs the agreement of both houses, except a vote to adjourn, must be presented to the President. Before it takes effect, he must approve it, or if he disapproves, two-thirds of both houses must pass it again, under the same rules as for a bill.*

This closes a loophole. Congress can't avoid the President's veto by calling a law something other than a "bill." If both houses have to agree to it, the President gets to approve or veto it too. The clause names one exception, a vote to adjourn. In practice there's a second: a proposed amendment to the Constitution doesn't go to the President, as Chapter 10 explains.

In a Nutshell

- The states run federal elections, but Congress can change the rules.
- Congress must meet every year; the Twentieth Amendment moved the start to January 3.
- Each house judges its own members' elections, sets its own rules, needs a majority for a quorum, and can expel a member by two-thirds.
- Members are paid by the national treasury, protected for what they say in Congress, and can't hold another federal office at the same time.
- Tax bills must start in the House.
- A bill becomes law when both houses pass it and the President signs it, when Congress overrides a veto by two-thirds of each house, or when the President doesn't act within ten days while Congress is in session.

Review Questions

1. Who sets the rules for congressional elections, and who can change them?
2. What is a quorum, and what is it in each house?
3. What does the Speech or Debate Clause protect?
4. Where must tax bills start, and why?
5. List the ways a bill can become law.
6. What is a pocket veto?

Chapter 5: Article I, Part 3: The Powers of Congress

Section 8 of Article I is the list of what Congress may do. It's one of the most important parts of the Constitution, because it answers the question the Articles of Confederation never solved: what can the national government actually do?

Read this list next to the Articles and you'll see the lessons of the 1780s everywhere. Congress gets the power to tax, the power to regulate trade between the states, and, at the end, the power to make all laws "necessary and proper" to carry out its other powers.

Each clause in Section 8 finishes the sentence that begins "The Congress shall have Power."

Money

> 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;

In plain words: *Congress has the power to set and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States. But all duties, imposts and excises must be the same throughout the United States.*

This is the power the Articles of Confederation lacked. Congress no longer has to beg the states for money. It can tax directly.

The four kinds of taxes named are taxes in general, duties and imposts (both taxes on imported goods), and excises (taxes on making, selling or using certain goods inside the country, like a tax on gasoline).

"Uniform throughout the United States" means Congress can't charge a higher import duty in Boston than in Charleston. Every state is treated the same.

The phrase "provide for the common Defence and general Welfare" has caused one of the longest-running arguments in American law. Does it give Congress a separate power to spend on anything that serves the general welfare, or only to spend in carrying out the other powers listed below? Madison and Hamilton took different sides. Madison argued that the words were only a reference to the specific powers listed after them, so Congress could spend only to carry out those powers. Hamilton argued that the clause was a separate power of its own, to tax and spend for anything that serves the general welfare. In 1936, in United States v. Butler, the Supreme Court sided with Hamilton's reading, while still saying the spending power has limits.

> To borrow Money on the credit of the United States;

In plain words: *Congress has the power to borrow money on the credit of the United States.*

Simple and powerful. The national government can borrow. The national debt comes from this clause.

Trade

> To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

In plain words: *Congress has the power to regulate trade with foreign countries, among the states, and with the Indian tribes.*

This is the Commerce Clause, and it may be the most argued-over clause in the Constitution. Commerce means trade, buying and selling, and moving goods.

Remember the trade tangle under the Articles, when each state set its own rules and taxes on trade and treaties couldn't override them? This clause ended that. Congress now regulates trade with other countries and between the states, so the country acts as one market.

For more than two centuries, courts have argued about how far "commerce among the several States" reaches. In 1824, in Gibbons v. Ogden, the Supreme Court ruled that New York couldn't give one company a monopoly over steamboats running between states, because Congress's power over that trade came first. From 1937 until 1995 the Court read the clause very broadly, even to reach hotels that serve travelers from other states, and it didn't strike down a single federal law for going beyond it. Then in 1995, in United States v. Lopez, the Court did just that, for the first time since 1937. Where exactly the line falls is still debated.

Notice also "with the Indian Tribes." Under the Articles, Congress's power over Native affairs had a limit protecting the states. Here there's no such limit. Federal power over relations with Native nations comes largely from this clause and from the treaty power.

Citizens, Money and Mail

> To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

In plain words: *Congress has the power to set one national rule for naturalization and national bankruptcy laws for the whole country.*

Naturalization is the process by which an immigrant becomes a citizen. Before the Constitution, each state had its own rules. Now Congress sets one rule for everyone. Bankruptcy is the legal process for people or businesses who can't pay their debts. Having one national system means a debtor can't just move to another state to escape his creditors.

> To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

In plain words: *Congress has the power to make money and set its value, set the value of foreign coins, and fix the standard of weights and measures.*

"Coin Money" means make it. Under the Articles, both Congress and the states made coins. Now only the national government does. (Section 10 forbids the states.)

> To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

In plain words: *Congress has the power to punish counterfeiting of United States securities and coins.*

Counterfeiting means making fake money. Securities here means government bonds and similar papers. If only the national government can make money, it needs the power to punish people who fake it.

> To establish Post Offices and post Roads;

In plain words: *Congress has the power to set up post offices and post roads.*

A post road is a road used to carry the mail. In 1787 the mail was the main way people sent news and did business at a distance, so this was a real national need.

Inventors and Authors

> 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;

In plain words: *Congress has the power to encourage the progress of science and useful arts by giving authors and inventors, for limited times, the sole right to their writings and discoveries.*

This is the basis for copyrights and patents. If you write a book or invent something, the law can give you the exclusive right to it for a limited time, so you can earn from your work. After that time, it becomes free for everyone to use. "Science" in 1787 meant knowledge in general, and "useful Arts" meant practical skills and crafts.

The original documents in this series are a good example. The Declaration, the Articles and the Constitution are free for anyone to print, and that's why their full text can appear in these books.

Courts, Crimes at Sea and War

> To constitute Tribunals inferior to the supreme Court;

In plain words: *Congress has the power to create courts below the Supreme Court.*

"Tribunals inferior to the supreme Court" are lower courts. The Constitution itself creates only the Supreme Court. Congress decides what other federal courts there will be. Today they include district courts, where federal trials happen, and courts of appeals. Article III says more.

> To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

In plain words: *Congress has the power to define and punish piracy and serious crimes committed on the high seas, and offenses against the law of nations.*

The "Law of Nations" was what we'd now call international law, the rules countries recognize in dealing with each other. This clause lets Congress make crimes out of things like piracy that happen outside any state.

> To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

In plain words: *Congress has the power to declare war, grant letters of marque and reprisal, and make rules about captures on land and water.*

Only Congress can declare war. This was a deliberate choice. In Britain the king could take the country to war. The Constitution gives that decision to the people's representatives.

The President is Commander in Chief (Article II), so he directs the military once it's committed. How the power to declare war and the President's power as Commander in Chief fit together has been debated many times, especially in the many conflicts since World War II that Congress never formally declared as wars. Congress has formally declared war 11 times, starting with the War of 1812 against Great Britain. The last time was during World War II.

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

In plain words: *Congress has the power to raise and support armies, but no money set aside for that purpose may be for more than two years.*

Remember the Declaration's complaint about standing armies kept "without the Consent of our legislatures"? Here's the answer. Congress, the people's representatives, controls the army's money, and it has to decide again at least every two years. That makes sure the army always depends on the elected Congress.

> To provide and maintain a Navy;

In plain words: *Congress has the power to provide and maintain a navy.*

Notice there's no two-year limit on paying for the navy, as there is for the army.

> To make Rules for the Government and Regulation of the land and naval Forces;

In plain words: *Congress has the power to make rules for governing and regulating the army and navy.*

Military law, the rules soldiers and sailors live by, is set by Congress.

The Militia

> To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

In plain words: *Congress has the power to provide for calling out the militia to enforce the laws of the Union, put down rebellions and fight off invasions.*

> 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;

In plain words: *Congress has the power to provide for organizing, arming and training the militia, and for governing the part of the militia that is called into the service of the United States. The states keep the right to appoint the officers and to train the militia according to the training rules Congress sets.*

These two clauses split control of the militia, the citizen soldiers of each state. Congress can call the militia out for three purposes: enforcing federal law, putting down rebellions, and stopping invasions. After Shays' Rebellion, the second one mattered a great deal.

Congress also sets the rules for organizing, arming and training the militia. But the states appoint the officers and do the training. That shared control is one more example of federalism.

The Capital and Federal Property

> 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

In plain words: *Congress has the power to make all laws, in every case, for a district no more than ten miles square that may become the seat of the national government, once particular states give the land and Congress accepts it. Congress has the same power over all places bought with the consent of*

the state legislature where they are, for building forts, storehouses for weapons and gunpowder, arsenals, dockyards and other needed buildings. And

This clause created what became Washington, D.C. The founders didn't want the national capital inside any one state, where that state could pressure the national government. So Congress would have full control over a separate federal district, up to ten miles on each side.

Notice the clause ends with "And." It leads straight into the last and most famous clause of Section 8.

The Necessary and Proper Clause

> 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.

In plain words: *Congress has the power to make all laws that are necessary and proper for carrying out the powers listed above, and all other powers the Constitution gives to the government of the United States or to any department or officer of it.*

This is the Necessary and Proper Clause, sometimes called the Elastic Clause because it stretches Congress's power to fit new needs.

Here's the question it raises: how necessary is "necessary"? Does it mean absolutely necessary, or just useful and appropriate? When Congress voted to create a national bank in 1791, Secretary of State Thomas Jefferson told President Washington the bank wasn't allowed, because the Constitution permits only the means that are "necessary," not those that are "merely 'convenient.'" Treasury Secretary Alexander Hamilton answered that "necessary often means no more than needful, requisite, incidental, useful, or conducive to."

The Supreme Court took up the question in 1819 in McCulloch v. Maryland, a case about whether Congress could create a national bank. The Constitution never mentions a bank. Chief Justice John Marshall wrote that Congress could choose any reasonable means to carry out its listed powers, like taxing, borrowing and regulating trade, as long as the end was legitimate and the means weren't forbidden. In his words, "Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional." That reading has guided the clause ever since, though people still argue about where its limits are.

Compare this to the Articles of Confederation, where states kept every power not "expressly delegated." The Necessary and Proper Clause is one of the biggest differences between the two documents.

In a Nutshell

- Section 8 lists the powers of Congress, starting with the power to tax that the Articles lacked.
- Congress can borrow money, regulate trade with foreign nations, among the states and with Indian tribes, set naturalization and bankruptcy rules, coin money, and run the post office.
- It can create copyrights and patents, set up lower federal courts and punish piracy.

- Only Congress can declare war, raise armies (with money approved for no more than two years at a time) and maintain a navy.
- Congress and the states share control of the militia.
- Congress governs the national capital district, and it can make all laws "necessary and proper" to carry out its powers.

Review Questions

1. What power in Section 8 fixed the biggest weakness of the Articles of Confederation?
2. What is the Commerce Clause, and why was it needed?
3. What do copyrights and patents protect, and for how long?
4. Why can army appropriations last no more than two years?
5. For what three purposes can Congress call out the militia?
6. What is the Necessary and Proper Clause, and what Supreme Court case first interpreted it?

Chapter 6: Article I, Part 4: What Congress and the States May Not Do

Section 8 told you what Congress can do. Sections 9 and 10 go the other way. Section 9 lists things Congress may not do, and Section 10 lists things the states may not do. Before the Bill of Rights was added, these were some of the only protections for individual people written into the Constitution.

Section 9: Limits on Congress

> 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.

In plain words: *Congress may not ban the migration or importing of any persons that any of the existing states think proper to let in until the year 1808. But it may put a tax or duty on that importing, of no more than ten dollars per person.*

This is the slave-trade clause. "Such Persons" meant enslaved people brought in from Africa and elsewhere. Like the three-fifths clause, it never uses the word "slave." It protected the trade for 20 years, and Article V made sure this clause couldn't be amended before 1808 either.

Delegates from South Carolina and Georgia most feared that the national government would interfere with the trade, and the Convention agreed to the 20-year delay as part of a bargain described in Chapter 1.

Congress acted as soon as it could. A law approved on March 2, 1807, banned the importing of enslaved people starting January 1, 1808, the first day the Constitution allowed. Slavery itself, and the buying and selling of enslaved people inside the country, went on until the Thirteenth Amendment ended slavery in 1865.

> 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.

In plain words: *The right to a writ of habeas corpus may not be suspended, unless the public safety requires it in a time of rebellion or invasion.*

Habeas corpus is Latin for "you shall have the body." A writ of habeas corpus is a court order telling a jailer to bring a prisoner before a judge and show a lawful reason for holding him. If there's no lawful reason, the judge orders the prisoner released. It's one of the oldest protections in English law, and it stops the government from locking people up without charges and leaving them there.

The Constitution lets it be suspended only during a rebellion or invasion, and only when public safety requires it. The best-known suspension came at the start of the Civil War. On April 27, 1861, President Lincoln suspended the writ. After soldiers arrested a Maryland man named John Merryman that May,

Chief Justice Roger Taney ruled in Ex parte Merryman that only Congress has the power to suspend the writ. On March 3, 1863, Congress passed a law authorizing the President to suspend it.

The clause sits in Article I, the article about Congress, which is one reason many people read it as a power for Congress. Who may suspend the writ was argued hard during the Civil War.

> No Bill of Attainder or ex post facto Law shall be passed.

In plain words: *Congress may not pass a bill of attainder or an ex post facto law.*

These two terms sound strange, but the ideas are simple.

A bill of attainder is a law that declares a specific person or group guilty of a crime and punishes them, with no trial. The English Parliament used them against its enemies. The Constitution says punishment has to come through the courts.

An ex post facto law is Latin for "after the fact." It's a law that makes something a crime after you've already done it, or makes the punishment harsher after the fact. If something was legal when you did it, the government can't go back and punish you for it.

> No Capitation, or other direct, Tax shall be laid, [unless in Proportion to the Census or enumeration herein before directed to be taken.]

The words in [brackets] were changed by the Sixteenth Amendment.

In plain words: *No head tax or other direct tax may be laid, unless it is divided among the states according to population, as counted by the census described earlier.*

A capitation is a tax on each person, also called a head tax. A direct tax had to be divided among the states by population, the same way House seats were. That made such taxes hard to collect in practice.

In 1894 Congress passed an income tax. The Supreme Court almost immediately struck it down, by a five-to-four vote. The Sixteenth Amendment, ratified in 1913, answered that ruling. It lets Congress tax incomes "without apportionment among the several States, and without regard to any census or enumeration." In plain words, Congress can tax incomes without dividing the tax among the states by population. That's why the bracketed words carry a note.

> No Tax or Duty shall be laid on Articles exported from any State.

In plain words: *No tax or duty may be put on goods shipped out of any state.*

Congress can tax goods coming into the country, but not goods going out. Southern states, which sold rice, indigo and tobacco overseas, feared that a Congress run by New England could hurt them with taxes on exports. This clause was their protection.

> 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.

In plain words: *No rule about trade or taxes may favor the ports of one state over the ports of another. And ships going to or from one state cannot be forced to enter, clear or pay duties in another state.*

Under the Articles, states fought trade wars with each other. This clause makes Congress treat every state's ports the same. A ship sailing from Virginia to Massachusetts can't be forced to stop in New York and pay New York's fees on the way.

> 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.

In plain words: *No money may be taken out of the Treasury unless a law has set it aside for that use. And a regular statement and account of all public money taken in and spent must be published from time to time.*

This is the power of the purse, and it belongs to Congress. The President can't spend a dollar unless Congress has passed a law to pay for it. That's called an appropriation. The second half requires the government to publish its books so the public can see how its money is spent.

When Congress and the President don't agree on the spending laws in time, the money stops for many programs. Under federal law, an agency without an appropriation must stop working, except where the law allows certain work to go on. That's what a government shutdown is.

> 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 plain words: *The United States may not grant any title of nobility. And no one holding a federal office of pay or trust may, without Congress's consent, accept any gift, payment, office or title of any kind from any king, prince or foreign country.*

This clause has two parts.

First, no titles of nobility. The United States will never have dukes, earls or lords. Under the Constitution, every citizen stands on the same level.

Second, federal officials can't take gifts, payments or titles from foreign governments unless Congress agrees. The worry was that a foreign king could buy the loyalty of an American official. This is often called the Emoluments Clause. An emolument is a payment or profit that comes with an office or a job.

This rule came from the Articles of Confederation, which had almost the same words in Article VI.

Section 10: Limits on the States

> 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.

In plain words: *No state may make any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; issue paper money; make anything but gold and silver coin legal for paying debts; pass any bill of attainder, ex post facto law, or law that weakens the duty to keep contracts; or grant any title of nobility.*

These are things no state can do, ever, even with Congress's permission.

- No state can make its own treaties or alliances. Foreign affairs belong to the national government.
- No state can coin money or print paper money. Under the Articles, states printed paper money that lost its value fast. Now money is a national matter.
- No state can pass bills of attainder or ex post facto laws. These are the same protections Section 9 gives against Congress.
- No state can pass a law impairing the obligation of contracts. That means a state can't pass a law that cancels or rewrites private agreements, such as wiping out people's debts.
- No state can grant titles of nobility.

> 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.

In plain words: *No state may, without Congress's consent, put taxes or duties on goods coming in or going out, except what is truly necessary to pay for its inspection laws. Any money a state does collect from such duties goes to the U.S. Treasury, and all such state laws can be revised and controlled by Congress.*

This ends the state trade wars from the days of the Articles. States can charge only what it costs to inspect goods. If they collect more, the extra goes to the national treasury, so there's no profit in it.

Notice the spelling "it's" in the original text. That's how the parchment reads.

> 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.

In plain words: *No state may, without Congress's consent, charge a duty based on a ship's size, keep troops or warships in peacetime, make an agreement or compact with another state or a foreign power, or go to war, unless it is actually invaded or in such immediate danger that it can't wait.*

These are things a state can do only with Congress's permission. A tonnage duty is a tax on a ship based on how much cargo it can carry. States may keep a militia, but not their own troops or warships in peacetime without Congress's consent.

States can make agreements with each other, called interstate compacts, if Congress agrees. And a state can defend itself if it's invaded, without waiting for Congress.

In a Nutshell

- Section 9 limits Congress. It protected the slave trade until 1808, protects habeas corpus, bans bills of attainder and ex post facto laws, and bans taxes on exports.
- No money can be spent unless Congress passes a law to spend it.
- The United States can't grant titles of nobility, and officials can't take foreign gifts or titles without Congress's consent.
- Section 10 limits the states. They can't make treaties, coin money, cancel contracts, or tax trade without Congress's consent.
- The Sixteenth Amendment later allowed a federal income tax without dividing it among the states by population.

Review Questions

1. What did Article I, Section 9 say about the slave trade, and when did Congress end the trade?
2. What is a writ of habeas corpus, and when may it be suspended?
3. What is an ex post facto law?
4. What is an appropriation, and why does it matter?
5. Name three things no state may do under Article I, Section 10.
6. Which amendment changed the rule on direct taxes, and what did it allow?

Chapter 7: Article II: The President

Under the Articles of Confederation there was no President with real power. Congress did everything, and nobody was in charge of carrying out the laws. Article II creates an executive branch led by one person, the President. The delegates argued over it a great deal. Should there be one executive or a council of three? How long should he serve? Who should choose him? Article II is their answer.

On June 1, Edmund Randolph told the Convention he "strenuously opposed a unity in the Executive magistracy," calling it "the foetus of monarchy." James Wilson answered that one executive would be "the best safeguard against tyranny." Wilson's side won.

Section 1: Choosing the President

> 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

> **In plain words:** *The executive power will belong to a President of the United States of America. He will serve a term of four years, and he and the Vice President, chosen for the same term, will be elected as follows.*

The executive power is the power to carry out the laws. The original Constitution put no limit on how many terms a President could serve. The Twenty-second Amendment, ratified in 1951, now limits a President to two elected terms.

> 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.

> **In plain words:** *Each state will appoint, in whatever way its legislature decides, a number of electors equal to the total number of Senators and Representatives the state has in Congress. But no Senator, Representative or person holding a federal office of trust or pay may be an elector.*

This is the start of the Electoral College. The people don't vote for President directly. Each state picks electors, and the electors choose the President.

How many electors does a state get? Add its two Senators to its number of House members. A state with one House seat gets three electors. A state with 52 House seats gets 54. The Twenty-third Amendment, ratified in 1961, later gave Washington, D.C. electors too, no more than the smallest state. With 100 Senators, 435 Representatives and 3 for D.C., there are 538 electors in all. It takes 270, a majority, to win.

Notice that the Constitution lets each state legislature decide how to choose its electors. Today, when you vote for President, you're actually voting for your candidate's electors. In 48 states and D.C., the candidate

who wins the most votes in the state gets all its electors. Maine and Nebraska divide theirs partly by congressional district.

Why didn't the delegates just let the people vote? They considered it. They also considered having the President chosen by the state legislatures, by the governors, or by Congress. The Electoral College was the compromise. The large states got more electors, the state legislatures got to decide how electors were chosen, and the House got to choose the President if no one won a majority. The National Archives calls it "a master stroke of compromise, quaint and curious but politically expedient." Historians still argue about which reasons mattered most.

> [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.]

The words in [brackets] were changed by the Twelfth Amendment.

In plain words: *The electors meet in their own states and vote by ballot for two people, and at least one of the two must not live in the electors' own state. They make a list of everyone voted for and the number of votes each got, sign and certify it, and send it sealed to the seat of the national government, addressed to the President of the Senate. The President of the Senate, with the Senate and House present, opens all the certificates, and the votes are counted. The person with the most votes becomes President, if that number is a majority of all the electors appointed. If more than one person has such a majority and they are tied, the House of Representatives immediately chooses one of them by ballot to be President. If no one has a majority, the House chooses the President from the top five on the list. When the House chooses, each state's delegation gets one vote. A quorum for this is at least one member from two-thirds of the states, and a majority of all the states is needed to win. In every case, after the President is chosen, the person with the next most electoral votes becomes Vice President. If two or more are tied, the Senate chooses the Vice President from them by ballot.*

Under this original plan each elector cast two votes, with no separate vote for Vice President. The top vote-getter became President, and the runner-up became Vice President.

That worked while George Washington was running, because everyone voted for him. But once political parties formed, it broke down. In 1800 Thomas Jefferson and his running mate, Aaron Burr, each got the same number of electoral votes. The tie went to the House, which took 36 ballots to choose Jefferson as President, with Burr as Vice President.

The Twelfth Amendment, ratified in 1804, fixed the problem. Electors now cast one vote for President and a separate vote for Vice President. That's why this whole clause is in brackets. The Twelfth Amendment book in this series explains the new rules.

The idea of the House choosing the President, one vote per state, survived in the Twelfth Amendment. It has happened only once under that amendment, in 1824, when no candidate won a majority of electoral votes and the House chose John Quincy Adams.

> 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.

In plain words: *Congress may set the time for choosing electors and the day the electors cast their votes. That day must be the same everywhere in the United States.*

Congress has set a single Election Day for choosing electors, the Tuesday after the first Monday in November every fourth year. The electors meet and vote in their states on the first Tuesday after the second Wednesday in December.

> 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.

In plain words: *No one may be President except a natural-born citizen, or a person who was a citizen of the United States when this Constitution was adopted. And no one may be President who isn't at least 35 years old and hasn't lived in the United States for 14 years.*

There are three requirements to be President.

1. Citizenship. You must be a natural-born citizen. The exception for anyone who was a citizen when the Constitution was adopted covered the founding generation. That exception has long since run out.
2. Age. You must be at least 35.
3. Residence. You must have lived in the United States for 14 years.

The Constitution never defines "natural born Citizen." The weight of legal and historical opinion reads it to mean a person who was a citizen at birth. But the Supreme Court has never ruled on a challenge to someone's eligibility to be President.

> [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.]

The words in [brackets] were changed by the Twenty-fifth Amendment.

In plain words: *If the President is removed from office, dies, resigns or is unable to carry out the powers and duties of the office, those powers and duties pass to the Vice President. Congress may pass a law covering the removal, death, resignation or inability of both the President and the Vice President, saying which officer will then act as President. That officer acts as President until the disability ends or a new President is elected.*

The clause didn't say clearly whether the Vice President became President or only took on the duties. It also didn't say how to decide that a living President was unable to serve, or how to fill an empty vice presidency. The Twenty-fifth Amendment, ratified in 1967, answered those questions. It says that if the President is removed, dies or resigns, "the Vice President shall become President." That's why this clause is in brackets.

Congress has used its power here to pass laws setting the order of who comes after the Vice President. Under the current law, the Speaker of the House is next, then the President pro tempore of the Senate, then members of the cabinet.

> The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased 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.

In plain words: *The President will be paid for his service at set times. His pay can't be raised or cut during the term he was elected to, and during that term he can't receive any other payment from the United States or any state.*

Congress can't punish a President by cutting his pay, or reward him by raising it. Either one would give Congress a hold over him. And the states can't pay him on the side either, which keeps him independent of any one state.

> 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."

> **In plain words:** *Before he begins carrying out the office, he must take this 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 only oath whose exact words are written in the Constitution. Every President takes it at the inauguration.

The President has the choice to "swear" or "affirm." An affirmation is a solemn promise without an oath. It gives a choice to people whose beliefs keep them from swearing an oath.

Notice what the President promises to protect. It's not the country's land or its people as such, but the Constitution itself.

Section 2: The President's Powers

> 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.

> **In plain words:** *The President will be Commander in Chief of the Army and Navy of the United States, and of the states' militias when they are called into actual national service. He may require a written opinion from the head of each executive department on any subject related to that department's duties. And he has the power to grant reprieves and pardons for federal crimes, except in cases of impeachment.*

This clause gives the President three powers.

The President commands the military. That puts a civilian, elected by the people, over the generals and admirals. Congress still declares war, raises the army and pays for it, as you saw in Section 8. Where the President's power as commander ends and Congress's power to declare war begins has been argued many times, as Chapter 5 noted.

The President can ask department heads for their opinions in writing. This is where the cabinet comes from, though the word "cabinet" isn't in the Constitution.

The President can pardon people convicted of federal crimes, or grant a reprieve, which delays a punishment. This doesn't cover state crimes. And he can't use it to stop an impeachment.

> 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.

> **In plain words:** *The President has the power, with the advice and consent of the Senate, to make treaties, if two-thirds of the Senators present agree. He will nominate, and with the advice and consent of the Senate appoint, ambassadors, other public ministers and consuls, Supreme Court judges, and all other officers of the United States whose appointments aren't provided for elsewhere and are set up by law. But Congress may pass laws letting the President alone, the courts or the department heads appoint lower officers, as Congress thinks proper.*

Here are two more checks and balances.

The President makes treaties, but two-thirds of the Senators present have to approve them. That's a high bar. The Senate has rejected important treaties. On November 19, 1919, for the first time in its history, it rejected a peace treaty, the Treaty of Versailles that ended World War I.

The President picks Supreme Court justices, ambassadors, cabinet secretaries and other top officials. But the Senate has to confirm them, usually by a majority vote. That's what "advice and consent" means. For less important jobs, Congress can let the President, the courts or department heads make appointments without the Senate.

> 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.

> **In plain words:** *The President has the power to fill any job openings that come up while the Senate is in recess, by granting commissions that end at the close of the Senate's next session.*

When the Senate wasn't meeting, which in the early years could be months at a time, the President could fill an empty office without waiting. That person could serve until the end of the Senate's next session. These are called recess appointments. In 2014, in NLRB v. Noel Canning, the Supreme Court ruled that a Senate break of more than three days but fewer than ten days is presumed too short to count as a recess for this purpose.

Section 3: The President's Duties

> 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.

> **In plain words:** *From time to time he will give Congress information on the State of the Union, and recommend for its consideration whatever measures he judges necessary and wise. On special occasions he may call both houses, or either one, into session. If they disagree about when to adjourn, he may adjourn them to whatever time he thinks proper. He will receive ambassadors and other public ministers. He will make sure the laws are faithfully carried out, and he will commission all the officers of the United States.*

This is a list of the President's duties.

The President has to report to Congress on the State of the Union. In 1913 Woodrow Wilson revived the practice of giving it to Congress in person. Today it's a yearly speech to both houses.

The President can call Congress into a special session, and can even adjourn Congress if the two houses can't agree on when to adjourn.

The President receives ambassadors from other countries.

He must "take Care that the Laws be faithfully executed." This is the heart of the President's job. Congress makes the laws. The President carries them out.

Section 4: Impeachment

> 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.

> **In plain words:** *The President, Vice President and all civil officers of the United States will be removed from office if they are impeached for, and convicted of, treason, bribery or other high crimes and misdemeanors.*

This is how the people's representatives can remove a President, Vice President or other official who abuses the office. You saw the two steps in Chapter 3. The House impeaches, which is like bringing charges, by a majority vote. The Senate holds the trial, and it takes two-thirds of the Senators present to convict.

Treason and bribery are clear. "High Crimes and Misdemeanors" is not. The phrase came from English law, where it covered serious abuses of power by officials, not only crimes in the usual sense. What it covers today has been argued in every presidential impeachment.

"Civil officers" includes federal judges and cabinet members. The House has impeached both.

Three Presidents have been impeached by the House: Andrew Johnson in 1868, Bill Clinton in 1998, and Donald Trump in 2019 and again in 2021. The Senate acquitted each one. No President has ever been removed by impeachment. Every official the Senate has convicted and removed has been a federal judge.

In a Nutshell

- The President holds the executive power for a four-year term. The Twenty-second Amendment later limited Presidents to two elected terms.
- The Electoral College chooses the President. Each state gets as many electors as it has Senators and Representatives.
- The original voting method, where the runner-up became Vice President, was replaced by the Twelfth Amendment in 1804.
- A President must be a natural-born citizen, at least 35, and a resident for 14 years.
- The President commands the military, grants pardons, makes treaties with two-thirds of the Senate, and appoints officials with the Senate's consent.
- The President must give Congress information on the State of the Union and make sure the laws are faithfully carried out.
- The President and other civil officers can be impeached and removed for treason, bribery or other high crimes and misdemeanors.

Review Questions

1. How many electors does each state get?
2. What went wrong with the original method of choosing a Vice President, and which amendment fixed it?
3. What are the three requirements to be President?
4. Name two powers the President shares with the Senate.
5. What does the President promise in the oath of office?
6. For what may a President be impeached and removed?

Chapter 8: Article III: The Courts

The Articles of Confederation had no national court system, apart from special courts for disputes between states and for crimes at sea. Article III creates the third branch of government, the judicial branch. It's much shorter than Articles I and II. It sets up a Supreme Court, lets Congress create lower courts, says what kinds of cases federal courts can hear, protects trial by jury, and defines treason.

Section 1: The Federal Courts and Their Judges

> 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.

> **In plain words:** *The judicial power of the United States will belong to one Supreme Court, and to whatever lower courts Congress creates over time. The judges of both the Supreme Court and the lower courts will keep their offices as long as they show good behavior, and they will be paid at set times. Their pay may not be cut while they stay in office.*

The Constitution creates only one court, the Supreme Court. It leaves the rest to Congress. In the Judiciary Act of 1789, the First Congress set up a system of lower federal courts, and Congress has changed it many times since. A separate level of appeals courts was added in 1891. Today there are district courts, where trials happen, and courts of appeals above them.

The Constitution doesn't say how many justices sit on the Supreme Court. Congress sets the number by law. The first Judiciary Act set it at six. Over the years it has ranged from five to ten. It has been nine since the Judiciary Act of 1869.

"During good Behaviour" means federal judges serve for life, unless they're impeached and removed, or they choose to retire or resign. And their pay can't be cut. Why? So that judges can rule against the President, Congress or a popular majority without fear of losing their jobs or their income. Alexander Hamilton defended this in The Federalist, No. 78, calling the judiciary the "least dangerous" branch. The President "holds the sword," he wrote, and Congress "commands the purse," but the courts have "neither FORCE nor WILL, but merely judgment."

Section 2: What Cases Federal Courts Can Hear

> 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.

The words in [brackets] were changed by the Eleventh Amendment.

In plain words: *The judicial power covers all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made under their authority; all cases involving ambassadors, other public ministers and consuls; all cases of admiralty and maritime law; disputes in which the United States is a party; disputes 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 land under grants from different states; and between a state, or its citizens, and foreign countries, citizens or subjects.*

This is a list of the kinds of cases federal courts can hear. Everything else belongs to the state courts. Most cases in America, like traffic tickets, divorces and most crimes, are handled in state courts.

Federal cases fall into two groups. Some depend on the subject. Cases under the Constitution, federal laws or treaties, and cases about ships and the sea, called admiralty, go to federal courts. Others depend on who the parties are. Cases involving the United States, foreign diplomats, two states, or citizens of different states can go to federal court.

"Law and Equity" were two kinds of courts in England. Courts of law awarded money damages. Courts of equity could order someone to do something, or stop doing it, when money wasn't enough. Federal courts can do both.

Notice the bracketed words "between a State and Citizens of another State." In 1793, in Chisholm v. Georgia, the Supreme Court ruled 4 to 1 that the state of Georgia could be sued in federal court over a debt owed to the estate of a South Carolina merchant. The Eleventh Amendment, ratified in 1795, reversed that decision. A state can't be sued in federal court by citizens of another state or of a foreign country.

Article III never says the courts can strike down laws that conflict with the Constitution. That power, called judicial review, was confirmed by the Supreme Court in Marbury v. Madison in 1803. Chief Justice John Marshall wrote that "it is emphatically the province and duty of the judicial department to say what the law is." Since then it has been one of the most important powers in the government.

> 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.

In plain words: *In all cases involving ambassadors, other public ministers and consuls, and cases in which a state is a party, the Supreme Court will have original jurisdiction. In all the other cases listed above, the Supreme Court will have appellate jurisdiction, over both the law and the facts, with whatever exceptions and under whatever rules Congress makes.*

Original jurisdiction means the case starts in the Supreme Court, which holds the trial. That only happens in a few kinds of cases, mostly disputes between states, like fights over water or borders.

Appellate jurisdiction means the Supreme Court hears the case on appeal, after a lower court has decided it. Nearly all of the Supreme Court's work is appeals. Today the Court chooses which cases to hear. It gets about 7,000 to 8,000 requests each term and hears arguments in about 80.

The last part, "with such Exceptions, and under such Regulations as the Congress shall make," gives Congress some control over what appeals the Court can hear. How far that power goes is debated.

> 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.

In plain words: *All crimes, except in cases of impeachment, will be tried by a jury. The trial will be held in the state where the crime was committed. When a crime wasn't committed in any state, the trial will be held wherever Congress has decided by law.*

One of the grievances in the Declaration of Independence was that the king had deprived colonists "of the benefits of Trial by Jury" and sent people "beyond Seas" for trial. This clause answers both. A person charged with a federal crime gets a jury, and the trial is held in the state where the crime happened, among the person's neighbors.

The Sixth Amendment, part of the Bill of Rights, added more detail, such as a speedy and public trial by an impartial jury.

Section 3: Treason

> 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.

In plain words: *Treason against the United States consists only of making war against them, or siding with their enemies by giving them aid and comfort. No one may be convicted of treason unless two witnesses testify to the same open act, or the person confesses in open court.*

Treason is the only crime defined in the Constitution. Why spell it out? A narrow definition can't easily be stretched to punish people for criticizing the government. And the men who wrote it had just done what Britain called treason themselves.

So treason means only two things: waging war against the United States, or helping its enemies. And proving it is hard. It takes two witnesses to the same overt act, meaning an actual deed, not just words or thoughts, or a confession in open court.

> 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.

In plain words: *Congress has the power to set the punishment for treason. But no attainder of treason will cause corruption of blood, or take away property, except during the life of the person convicted.*

Under old English law, a person convicted of treason suffered "corruption of blood." His family couldn't inherit his property or titles. The children were punished for the parent's crime. This clause forbids that. Congress can punish the traitor, but not his children or heirs.

In a Nutshell

- Article III creates one Supreme Court and lets Congress create lower federal courts.
- Federal judges serve during good behavior, which in practice means for life, and their pay can't be cut.
- Federal courts hear cases under the Constitution, federal laws and treaties, and cases between certain kinds of parties. The Eleventh Amendment later barred suits against a state by citizens of other states.
- The power of judicial review comes from Marbury v. Madison (1803), not from the words of Article III.
- Criminal trials are by jury, in the state where the crime happened.
- Treason is narrowly defined and needs two witnesses to the same act, or a confession in open court.

Review Questions

1. What court does the Constitution itself create? Who creates the others?
2. How long do federal judges serve, and why?
3. What is the difference between original and appellate jurisdiction?
4. What is judicial review, and where did it come from?
5. What two things count as treason under the Constitution?
6. What does it take to convict someone of treason?

Chapter 9: Article IV: The States and Each Other

Articles I, II and III set up the national government. Article IV turns to the states. It covers how the states must treat each other's laws and citizens, how new states join the Union, and what the national government promises every state. Much of it was borrowed from Article IV of the Articles of Confederation.

Section 1: Full Faith and Credit

> 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.

In plain words: *Each state must give full faith and credit to the public laws, records and court rulings of every other state. Congress may pass general laws setting out how those laws, records and rulings are to be proved, and what effect they have.*

This clause keeps the states from ignoring each other. If a court in Ohio rules that you owe someone money, you can't escape the judgment by moving to Indiana. Indiana's courts must honor it. A birth certificate, a deed, or a marriage record from one state is honored in another.

Section 2: Citizens, Fugitives and Escaped Workers

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

In plain words: *The citizens of each state are entitled to all the privileges and immunities of citizens in the other states.*

A state can't treat visitors and newcomers from other states as second-class people. If you travel to or move to another state, you get the same basic rights as that state's own citizens. A state can't, for example, refuse to let out-of-state citizens use its courts or own property.

> 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.

In plain words: *A person charged in any state with treason, felony or another crime, who flees from justice and is found in another state, must be handed over when the governor of the state he fled from asks, to be sent back to the state where the crime took place.*

This is extradition between states. A person can't commit a crime in one state and escape by crossing the border into another. The governor of the state where the crime happened asks, and the other state sends the person back.

> [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.]

The words in [brackets] were changed by the Thirteenth Amendment.

In plain words: *No person held to service or labor in one state under its laws, who escapes into another state, may be freed from that service or labor because of any law or rule in the state he escapes to. He must be handed over when the person he owes the service or labor to claims him.*

This is the Fugitive Slave Clause, and it's one of the hardest parts of the original Constitution to read today. "Person held to Service or Labour" meant mainly enslaved people. Once again the word "slave" isn't used.

The clause meant that a person who escaped from slavery didn't become free by reaching a free state. The free state had to return him. Congress passed fugitive slave laws in 1793 and 1850 to enforce it. The 1850 law required ordinary citizens to help capture and return people who had escaped, which brought the issue home to many in the North. People who escaped slavery, and those who helped them, made up what came to be called the Underground Railroad.

The Thirteenth Amendment, ratified in 1865, abolished slavery. That ended this clause's effect, and it's why the words are in brackets.

Section 3: New States and Federal Land

> 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.

In plain words: *Congress may admit new states into the Union. But no new state may be formed inside the borders of another state, and no state may be formed by joining two or more states, or parts of states, without the consent of the legislatures of the states involved and of Congress.*

The Union was built to grow. The Northwest Ordinance of 1787, passed by the Confederation Congress, had already promised that new states from the western lands would join "on an equal footing with the original States." This clause gives Congress the power to admit them. Thirty-seven states have joined since the original thirteen.

A state can't be split up or merged without its own consent. One unusual case came during the Civil War. The western counties of Virginia broke away and became the state of West Virginia on June 20, 1863.

Virginia's consent came from the Restored Government of Virginia, a second state government that pro-Union Virginians formed in 1861 after Virginia voted to secede.

> 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.

In plain words: *Congress has the power to sell or give away, and to make all needed rules for, the territory and other property of the United States. Nothing in this Constitution will be read in a way that harms any claims of the United States or of any particular state.*

This is the Territory Clause. It gives Congress control over land that belongs to the nation but isn't part of any state. In 1787 that meant the western lands.

The last part left old land disputes between the states, and between the states and the nation, to be settled some other way.

Section 4: Promises to Every State

> 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.

In plain words: *The United States will guarantee every state in the Union a republican form of government. It will protect each state against invasion. And when the state legislature asks, or the governor asks when the legislature can't be called together, it will protect the state against violence inside its borders.*

This clause makes three promises to the states.

The national government guarantees that every state will have a republican form of government, meaning a government run by elected representatives of the people. No state can turn itself into a monarchy.

It will protect every state from invasion. An attack on one state is an attack on all.

And it will help put down violence inside a state when the state asks. Remember Shays' Rebellion, when Massachusetts got no help from Congress? This clause means that won't happen again.

In a Nutshell

- Each state must honor the laws, records and court rulings of the other states.
- Citizens of one state get the same basic rights when they're in another state.
- A person who flees to another state to escape criminal charges must be sent back.

- The Fugitive Slave Clause required escaped enslaved people to be returned. The Thirteenth Amendment ended it.
- Congress admits new states, and no state can be split or merged without its consent.
- Congress governs federal territory and property.
- The United States guarantees every state a republican government and protects it from invasion and, on request, from violence inside its borders.

Review Questions

1. What does "full faith and credit" mean?
2. What happens if a person charged with a crime in one state flees to another?
3. What did the Fugitive Slave Clause require, and what ended it?
4. Who admits new states into the Union?
5. What three promises does the United States make to every state in Section 4?

Chapter 10: Article V: How to Change the Constitution

The Articles of Confederation could be changed only if Congress and every one of the thirteen state legislatures agreed. That was almost impossible, and the Articles were never amended. The delegates in 1787 wanted a Constitution that could be changed, but not easily or on a whim. Article V is how they did it.

> 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.

In plain words: *Whenever two-thirds of both houses think it necessary, Congress will propose amendments to this Constitution. Or, when the legislatures of two-thirds of the states apply for it, Congress will call a convention for proposing amendments. In either case, an amendment becomes fully part of this Constitution when it is ratified by the legislatures of three-fourths of the states, or by conventions in three-fourths of the states, whichever way of ratifying Congress chooses. But no amendment made before the year 1808 may in any way affect the first and fourth clauses in the ninth section of the first article. And no state, without its consent, may be deprived of its equal vote in the Senate.*

Two Steps: Propose, Then Ratify

Changing the Constitution takes two steps, and each step has two possible routes.

Step 1 is proposing an amendment. There are two ways.

1. Two-thirds of both the House and the Senate vote to propose it. Every one of the 27 amendments so far started this way.
2. Two-thirds of the state legislatures, which is 34 of the 50 states today, ask Congress to call a convention, and the convention proposes amendments. This has never happened.

Step 2 is ratifying the amendment. Again there are two ways, and Congress picks which one.

1. Three-fourths of the state legislatures, 38 of 50 today, approve it.

2. Conventions in three-fourths of the states approve it. The first time Congress chose this route was for the Twenty-first Amendment in 1933, which ended Prohibition.

Notice that the President has no part in either step. An amendment doesn't go to the President for a signature or a veto.

The bar is high on purpose. In more than 235 years, only 27 amendments have been ratified, and the first ten, the Bill of Rights, were ratified together in 1791.

Two Things That Couldn't Be Changed

Article V also protected two things from amendment.

The first protection ran out in 1808. Until then, no amendment could touch the first and fourth clauses of Article I, Section 9. Those were the slave-trade clause and the direct-tax clause. This was part of the bargain over slavery described in Chapter 1.

The second protection never runs out. No state can lose its equal vote in the Senate without its own consent. Small states insisted on this. It means that even if every other state agreed, Wyoming's two Senators couldn't be taken away unless Wyoming agreed. It's the only part of the Constitution that today can't be changed by the normal amendment process.

In a Nutshell

- Amendments are proposed by two-thirds of both houses of Congress, or by a convention called at the request of two-thirds of the states.
- They're ratified by three-fourths of the state legislatures or by conventions in three-fourths of the states.
- All 27 amendments have been proposed by Congress. The Twenty-first was the first sent to state conventions for ratification.
- The President has no formal role in amending the Constitution.
- Until 1808 the slave-trade and direct-tax clauses couldn't be amended. No state can lose its equal vote in the Senate without its consent.

Review Questions

1. What are the two ways to propose an amendment?
2. What are the two ways to ratify an amendment, and who chooses which is used?
3. Which amendment was the first sent to state conventions instead of state legislatures?
4. What part of the Constitution can't be changed without a state's own consent?
5. Why is it hard to amend the Constitution?

Chapter 11: Articles VI and VII: Supreme Law and Ratification

The last two articles are short, but Article VI holds one of the most important sentences in the Constitution. It makes the Constitution the supreme law of the land. Article VII explains how the Constitution would take effect. After that come the closing words and the signatures.

Article VI: Debts, Supreme Law and Oaths

> 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.

> **In plain words:** *All debts and agreements made before this Constitution is adopted will be just as binding on the United States under this Constitution as they were under the Confederation.*

The new government didn't get a fresh start on its bills. The Articles had said that the money Congress borrowed and the debts it ran up were a charge against the United States. This clause carried that promise forward. That mattered for the country's credit. A nation that walks away from its debts has a hard time borrowing again.

> 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.

> **In plain words:** *This Constitution, the laws of the United States made under it, and all treaties made or that will be made under the authority of the United States, will be the supreme law of the land. The judges in every state will be bound by them, no matter what any state's constitution or laws say.*

This is the Supremacy Clause. It settles what happens when national law and state law conflict. The Constitution comes first. Federal laws and treaties made under it come next. When a valid federal law conflicts with a state law, the federal law wins, and state judges have to follow it.

Notice the words "in Pursuance thereof." A federal law counts as supreme only if it's made under the Constitution, within the powers the Constitution gives. A federal law that goes beyond those powers isn't protected by this clause.

Under the Articles, Congress could make treaties and pass resolutions, but states often ignored them. The Supremacy Clause, along with a national court system, put an end to that.

> 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.

> **In plain words:** *The Senators and Representatives already mentioned, the members of the state legislatures, and all executive and judicial officers, both of the United States and of the states, will be bound by oath or affirmation to support this Constitution. But no religious test will ever be required to hold any office or public trust under the United States.*

This clause does two things.

First, every official, national and state, must promise to support the Constitution. State legislators and judges take the oath too. That ties state officials to the national Constitution.

Second, no religious test for federal office. This clause forbids requiring any particular religious belief, or church membership, to hold federal office. A person of any faith, or of no faith, may serve. It's the only place the original seven articles mention religion. The First Amendment, added in 1791, went further on religious freedom.

Article VII: Ratification

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

> **In plain words:** *When conventions in nine states ratify this Constitution, that will be enough to put it into effect among the states that ratified it.*

This short sentence was a bold move. The Articles of Confederation said they could only be changed with the agreement of every state. The Constitution bypassed that rule in two ways.

It needed only nine states, not all thirteen. One stubborn state, like Rhode Island, couldn't block it.

And it was ratified by special conventions elected for that purpose, not by the state legislatures. That way the Constitution rested on the people, the "We the People" of the Preamble, and not on the state governments, which might lose power under the new system.

Notice the last words: "between the States so ratifying the Same." The Constitution would bind only the states that said yes. A state that refused would be on its own, outside the new Union. That gave holdout states a strong reason to join.

As you read in Chapter 1, New Hampshire became the ninth state on June 21, 1788. All thirteen had ratified by May 29, 1790.

The Closing Words and the Signatures

After Article VII, the parchment has a short note about corrections, the date and the signatures.

> The Word, "the," being interlined between the seventh and eighth Lines of the first Page, The Word "Thirty" being partly written on an Erazure in the fifteenth Line of the first Page, The Words "is tried" being interlined between the thirty second and thirty third Lines of the first Page and the Word "the" being interlined between the forty third and forty fourth Lines of the second Page.

In plain words: *The word "the" was written in between the seventh and eighth lines of the first page. The word "Thirty" was partly written over an erasure in the fifteenth line of the first page. The words "is tried" were written in between the thirty-second and thirty-third lines of the first page. And the word "the" was written in between the forty-third and forty-fourth lines of the second page.*

This is a list of corrections. Jacob Shallus, the clerk who wrote out the parchment by hand, made a few mistakes, and the corrections were listed so no one could later claim the document had been changed after signing. Think of it as the 1787 version of initialing a change in a contract.

> Attest William Jackson Secretary

In plain words: *Witnessed by William Jackson, Secretary.*

William Jackson was the Convention's secretary. His signature confirms that the document is the true one.

> 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 Independance of the United States of America the Twelfth In witness whereof We have hereunto subscribed our Names,

In plain words: *Done in the Convention by the unanimous consent of the states present, on September 17, 1787, the twelfth year of the independence of the United States of America. To show this, we have signed our names below.*

"Unanimous Consent of the States present" is carefully worded. Every state delegation present voted yes. That doesn't mean every delegate agreed. Some delegates who were present refused to sign.

The date is given two ways. "The Year of our Lord" was the usual way of writing a date at the time, meaning years counted from the birth of Jesus. The second, "the Twelfth" year of independence, counts from 1776. The delegates tied the new Constitution to the Declaration of Independence.

> G°. Washington Presidt and deputy from Virginia
> Delaware: Geo: Read, Gunning Bedford jun, John Dickinson, Richard Bassett, Jaco: Broom
> Maryland: James McHenry, Dan of St Thos. Jenifer, Danl. Carroll
> Virginia: John Blair, James Madison Jr.
> North Carolina: Wm. Blount, Richd. Dobbs Spaight, Hu Williamson
> South Carolina: J. Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler
> Georgia: William Few, Abr Baldwin
> New Hampshire: John Langdon, Nicholas Gilman
> Massachusetts: Nathaniel Gorham, Rufus King
> Connecticut: Wm. Saml. Johnson, Roger Sherman
> New York: Alexander Hamilton
> New Jersey: Wil: Livingston, David Brearley, Wm. Paterson, Jona: Dayton
> Pennsylvania: B Franklin, Thomas Mifflin, Robt. Morris, Geo. Clymer, Thos. FitzSimons, Jared Ingersoll, James Wilson, Gouv Morris

Washington's name comes first, as president of the Convention, and the rest are grouped by state. They're printed here in the order and form of the National Archives transcription, abbreviations and all. "Presidt" means President, "jun" means Junior, "Wm." means William, and so on.

Thirty-nine delegates signed, representing twelve states. Rhode Island sent no delegates. Alexander Hamilton is the only signer for New York. The state's other two delegates, Robert Yates and John Lansing, had left the Convention early.

In a Nutshell

- Article VI keeps the old debts of the Confederation binding on the new government.
- The Supremacy Clause makes the Constitution, federal laws made under it, and treaties the supreme law of the land.
- All national and state officials must swear or affirm to support the Constitution, and no religious test may be required for federal office.
- Article VII put the Constitution into effect once conventions in nine states ratified it.
- Thirty-nine delegates from twelve states signed on September 17, 1787.

Review Questions

1. What does the Supremacy Clause say?
2. What does Article VI say about religion and public office?
3. Who must take an oath to support the Constitution?
4. How many states had to ratify the Constitution, and by what kind of body?
5. Why does the closing count the year as "the Twelfth" of independence?

Chapter 12: What Changed Later

You've now read every word of the Constitution as it was signed in 1787. But the Constitution in force today isn't the same document. Twenty-seven amendments have been added. Some added new rights. Others changed the words of the original seven articles directly.

This chapter brings together every place in the original text that a later amendment changed. These are the words you saw in [brackets] throughout the book. The National Archives marks the same passages in its transcription.

The Bracketed Passages

Where	What the original said	Changed by
Article I, Section 2	House seats and direct taxes divided by counting free persons plus "three fifths of all other Persons"	Fourteenth Amendment, Section 2 (1868)
Article I, Section 3	Senators "chosen by the Legislature" of each state	Seventeenth Amendment (1913)
Article I, Section 3	Governors could make temporary Senate appointments when the legislature was in recess	Seventeenth Amendment (1913)
Article I, Section 4	Congress meets on "the first Monday in December"	Twentieth Amendment, Section 2 (1933)
Article I, Section 9	Direct taxes must be divided among the states by population	Sixteenth Amendment (1913), for taxes on incomes
Article II, Section 1	Each elector votes for two persons; the runner-up becomes Vice President	Twelfth Amendment (1804)
Article II, Section 1	Powers "devolve on" the Vice President if the President dies, resigns or is unable to serve	Twenty-fifth Amendment (1967)
Article III, Section 2	Federal courts hear cases "between a State and Citizens of another State"	Eleventh Amendment (1795)
Article IV, Section 2	Persons "held to Service or Labour" who escape must be returned	Thirteenth Amendment (1865)

A few notes on the table.

The Sixteenth Amendment didn't erase the direct-tax rule. It took income taxes out of it. Other direct taxes still have to be divided among the states by population.

The Twentieth Amendment also moved the start of the President's term from March to January 20, and it changed part of the Twelfth Amendment. Those details are in the Amendments books in this series.

The Fourteenth Amendment ended the three-fifths count. Every person is now counted as a whole person for House seats. The Thirteenth Amendment ended slavery and with it the Fugitive Slave Clause. The 1808 slave-trade clause in Article I, Section 9 had already run its course. It isn't bracketed because no amendment changed it. Its time limit simply passed.

Other Amendments That Changed How the Original Works

Some amendments didn't change the words of the seven articles but changed how they work in practice.

Amendment	Year ratified	What it did to the original plan
Bill of Rights (First through Tenth)	1791	Added protections for individual rights and limits on the national government, answering the Anti-Federalists' main complaint.
Fifteenth	1870	Barred denying the right to vote because of race, color or previous condition of servitude.
Nineteenth	1920	Barred denying the right to vote because of sex.
Twenty-second	1951	Limited a President to two elected terms.
Twenty-third	1961	Gave Washington, D.C. electors in presidential elections.
Twenty-fourth	1964	Barred poll taxes in federal elections.
Twenty-sixth	1971	Set the voting age at 18.
Twenty-seventh	1992	Delayed any change in Congress's pay until after the next House election.

Where to Go Next

The Bill of Rights and each of the later amendments have their own books in this series, America's Founding Documents in Plain English. They follow the same pattern as this one. You'll read each amendment in its original words, then in plain English, then with an explanation of what it means and how it came to be.

The Constitution has lasted more than 235 years. Part of the reason is that the men who wrote it built in a way to change it. As you've seen, Americans have used that power 27 times, to fix mistakes, to answer new problems, and to widen who is counted among "We the People."

In a Nutshell

- Nine passages in the original seven articles were changed by later amendments, and they're marked in [brackets] in this book.
- Eight amendments made those changes: the Eleventh, Twelfth, Thirteenth, Fourteenth, Sixteenth, Seventeenth, Twentieth and Twenty-fifth.
- Other amendments, starting with the Bill of Rights, added rights and changed how the original plan works without changing its words.

Review Questions

1. Which amendment changed how Senators are chosen?
2. Which amendment replaced the original method of electing the President and Vice President?

3. Which two amendments ended the slavery-related clauses of the original text?
4. Why isn't the 1808 slave-trade clause in brackets?

Timeline

This timeline covers the main events in this book. Each date comes from the sources listed at the back.

Date	Event
July 4, 1776	Congress approves the Declaration of Independence.
March 1, 1781	The Articles of Confederation take effect.
September 14, 1786	The Annapolis Convention calls for a convention in Philadelphia the next May.
May 25, 1787	The Constitutional Convention elects George Washington to preside.
May 29, 1787	Edmund Randolph presents the Virginia Plan.
June 15, 1787	William Paterson lays the New Jersey Plan before the Convention.
July 16, 1787	The Convention adopts the Great Compromise.
September 15, 1787	Every state delegation present votes to approve the Constitution.
September 17, 1787	Thirty-nine delegates sign the Constitution.
December 7, 1787	Delaware becomes the first state to ratify.
June 21, 1788	New Hampshire becomes the ninth state to ratify, enough to put the Constitution into effect.
March 4, 1789	The date set for the new government to begin in New York City.
November 21, 1789	North Carolina ratifies.
May 29, 1790	Rhode Island ratifies, the last of the thirteen.
December 15, 1791	The Bill of Rights is ratified.
February 7, 1795	The Eleventh Amendment is ratified.
June 15, 1804	The Twelfth Amendment is ratified.
January 1, 1808	The first day Congress may ban importing enslaved people, and the day its ban takes effect.
December 6, 1865	The Thirteenth Amendment ends slavery.
July 9, 1868	The Fourteenth Amendment is ratified.
February 3, 1913	The Sixteenth Amendment is ratified.
April 8, 1913	The Seventeenth Amendment is ratified.
January 23, 1933	The Twentieth Amendment is ratified.
February 10, 1967	The Twenty-fifth Amendment is ratified.
May 7, 1992	The Twenty-seventh Amendment is ratified, the most recent change to the Constitution.

The Constitution: The Full Original Text

Here is the Constitution as it was signed in 1787, straight through, as transcribed by the National Archives. The spelling, capitals and punctuation are the originals. Words in [brackets] were later changed by the amendment named in the note after them.

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

Article. I.

Section. 1.

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

Section. 2.

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 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.

[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. (Changed by the Fourteenth Amendment.)

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

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section. 3.

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. (Changed by the Seventeenth Amendment.)

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.] (Changed by the Seventeenth Amendment.)

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.

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

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 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.

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.

Section. 4.

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.

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. (Changed by the Twentieth Amendment.)

Section. 5.

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.

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.

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.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section. 6.

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.

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 encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section. 7.

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.

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.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section. 8.

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;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

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;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

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

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

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;

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

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section. 9.

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.

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.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, [unless in Proportion to the Census or enumeration herein before directed to be taken.] (Changed by the Sixteenth Amendment.)

No Tax or Duty shall be laid on Articles exported from any State.

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.

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.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Section. 10.

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.

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.

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

Article. II.

Section. 1.

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

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 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.] (Changed by the Twelfth Amendment.)

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.

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.

[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.] (Changed by the Twenty-fifth Amendment.)

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased 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.

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

Section. 2.

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.

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.

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

Section. 3.

He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive

Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section. 4.

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

Article. III.

Section. 1.

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

Section. 2.

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. (Changed by the Eleventh Amendment.)

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.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section. 3.

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.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

Article. IV.

Section. 1.

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

Section. 2.

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

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.

[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.] (Changed by the Thirteenth Amendment.)

Section. 3.

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.

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

Section. 4.

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

Article. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Article. VI.

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.

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.

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

Article. VII.

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

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Attest William Jackson Secretary

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 Independance of the United States of America the Twelfth In witness whereof We have hereunto subscribed our Names,

Signers

G°. Washington Presidt and deputy from Virginia:

Delaware: Geo: Read, Gunning Bedford jun, John Dickinson, Richard Bassett, Jaco: Broom

Maryland: James McHenry, Dan of St Thos. Jenifer, Danl. Carroll

Virginia: John Blair, James Madison Jr.

North Carolina: Wm. Blount, Richd. Dobbs Spaight, Hu Williamson

South Carolina: J. Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler

Georgia: William Few, Abr Baldwin

New Hampshire: John Langdon, Nicholas Gilman

Massachusetts: Nathaniel Gorham, Rufus King

Connecticut: Wm. Saml. Johnson, Roger Sherman

New York: Alexander Hamilton

New Jersey: Wil: Livingston, David Brearley, Wm. Paterson, Jona: Dayton

Pennsylvania: B Franklin, Thomas Mifflin, Robt. Morris, Geo. Clymer, Thos. FitzSimons, Jared Ingersoll, James Wilson, Gouv Morris

Answer Key

Chapter 1: A Summer in Philadelphia

1. The government under the Articles of Confederation was too weak. The Convention was supposed to revise the Articles.

2. Rhode Island.

3. The plan that gave each state equal votes in the Senate and gave the House seats based on population.

4. Any one of: the three-fifths clause (Article I, Section 2), the 1808 slave-trade clause (Article I, Section 9), the clause on persons "held to Service or Labour" (Article IV, Section 2).

5. September 17, 1787. Thirty-nine signed.

6. Nine. New Hampshire, on June 21, 1788.

Chapter 2: We the People

1. "We the People of the United States."

2. Any three of: form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, secure the blessings of liberty to ourselves and our posterity.

3. All the generations who come after us.

4. Legislative (Congress), Article I; executive (the President), Article II; judicial (the courts), Article III.

5. Examples: the President can veto a bill and Congress can override the veto; the Senate must approve treaties and judges; Congress can impeach and remove officials.

6. A system that divides power between the national government and the state governments.

Chapter 3: Article I, Part 1: Congress, the House and the Senate

1. Having two lawmaking houses. The House of Representatives and the Senate.

2. Representative: at least 25 years old, a citizen for seven years, and an inhabitant of the state. Senator: at least 30 years old, a citizen for nine years, and an inhabitant of the state.

3. Every ten years, so that House seats can be divided among the states according to population.

4. It counted three-fifths of "all other Persons," meaning enslaved people, when dividing House seats and direct taxes. Section 2 of the Fourteenth Amendment changed it.

5. State legislatures originally. Since the Seventeenth Amendment, the people of each state elect them.

6. The House impeaches, which means it brings the charges. The Senate holds the trial and decides whether to convict, which takes two-thirds of the Senators present.

Chapter 4: Article I, Part 2: How Congress Works and How a Bill Becomes a Law

1. Each state legislature sets them, but Congress may make or change them by law.

2. The minimum number of members present needed to do business. In each house it is a majority.

3. It protects members of Congress from being sued or prosecuted for what they say in their official work in Congress.

4. In the House of Representatives, because its members are elected directly by the people every two years.

5. Both houses pass it and the President signs it; Congress overrides a veto by two-thirds of each house; or the President does not return it within ten days (Sundays excepted) while Congress is in session.

6. When a bill dies because the President doesn't sign it and Congress adjourns before he can return it.

Chapter 5: Article I, Part 3: The Powers of Congress

1. The power to lay and collect taxes.

2. The power of Congress to regulate trade with foreign nations, among the states and with Indian tribes. Under the Articles, each state set its own trade rules, which caused conflict.

3. The rights of authors and inventors to their writings and discoveries, for limited times.

4. So the army always depends on the elected Congress approving its money again.

5. To execute the laws of the Union, suppress insurrections and repel invasions.

6. The clause letting Congress make all laws necessary and proper to carry out its powers. McCulloch v. Maryland, 1819.

Chapter 6: Article I, Part 4: What Congress and the States May Not Do

1. Congress could not ban it before 1808. Congress banned importing enslaved people starting January 1, 1808.

2. A court order that a person being held be brought before a judge to decide if the person is held lawfully. It may be suspended only in cases of rebellion or invasion when public safety requires it.

3. A law that makes something a crime after it was done, or increases the punishment after the fact.

4. A law setting aside public money for a use. No money can be spent from the Treasury without one, which gives Congress the power of the purse.

5. Any three of: make treaties or alliances, grant letters of marque, coin money, issue paper money, make anything but gold and silver coin legal tender, pass bills of attainder or ex post facto laws, impair contracts, grant titles of nobility.

6. The Sixteenth Amendment. It allows Congress to tax incomes without dividing the tax among the states by population.

Chapter 7: Article II: The President

1. As many as its total number of Senators and Representatives in Congress.

2. Electors cast two votes with no separate vote for Vice President, so rivals could end up as President and Vice President, and running mates could tie, as in 1800. The Twelfth Amendment (1804) gave separate votes for President and Vice President.

3. A natural-born citizen, at least 35 years old, and a resident of the United States for 14 years.

4. Making treaties (two-thirds of Senators present must agree) and appointing ambassadors, judges and other officers (the Senate must consent).

5. To faithfully execute the office of President and, to the best of his ability, preserve, protect and defend the Constitution of the United States.

6. Treason, bribery, or other high crimes and misdemeanors.

Chapter 8: Article III: The Courts

1. The Supreme Court. Congress creates the lower federal courts.

2. During good behavior, which in practice means for life unless removed by impeachment. It lets them rule without fear of losing their jobs or pay.

3. Original jurisdiction means a court hears a case first. Appellate jurisdiction means it reviews a lower court's decision.

4. The power of courts to strike down laws that go against the Constitution. The Supreme Court established it in Marbury v. Madison (1803).

5. Making war against the United States, or siding with its enemies by giving them aid and comfort.

6. Two witnesses to the same overt act, or a confession in open court.

Chapter 9: Article IV: The States and Each Other

1. Each state must honor the laws, records and court rulings of every other state.

2. The governor of the state where the crime happened can demand the person's return, and the other state must hand the person over. This is called extradition.

3. It required people who escaped from slavery to be returned to those who claimed them. The Thirteenth Amendment, which abolished slavery in 1865, ended it.

4. Congress.

5. A republican form of government, protection against invasion, and, on request, protection against violence inside the state.

Chapter 10: Article V: How to Change the Constitution

1. A two-thirds vote of both houses of Congress, or a convention called by Congress when two-thirds of the state legislatures ask for one.

2. By the legislatures of three-fourths of the states, or by conventions in three-fourths of the states. Congress chooses.

3. The Twenty-first Amendment (1933), which ended Prohibition.

4. A state's equal vote in the Senate.

5. It takes two-thirds of Congress (or of the states) to propose and three-fourths of the states to ratify, so an amendment needs very wide support.

Chapter 11: Articles VI and VII: Supreme Law and Ratification

1. The Constitution, federal laws made under it, and treaties are the supreme law of the land, and state judges must follow them over any conflicting state law.

2. No religious test may ever be required to hold federal office.

3. Members of Congress, state legislators, and all executive and judicial officers of the United States and of the states.

4. Nine states, by special ratifying conventions.

5. It counts from the Declaration of Independence in 1776, tying the Constitution to it.

Chapter 12: What Changed Later

1. The Seventeenth Amendment (1913), which gave the choice to the people of each state.

2. The Twelfth Amendment (1804).

3. The Thirteenth Amendment ended slavery and the Fugitive Slave Clause. The Fourteenth Amendment ended the three-fifths count.

4. No amendment changed it. Its time limit simply ran out in 1808.

Glossary

Abolish. To end something officially.

Acquit. To find a person not guilty.

Admiralty. The law of ships and the sea. Also called maritime law.

Admit. To let in or accept as a member.

Advice and consent. The Senate's power to approve or reject treaties and the President's nominees.

Affirmation. A solemn promise that has the same force as an oath, for people who prefer not to swear.

Aid and comfort. Help or support given to an enemy.

Ambassador. An official sent to represent the country in a foreign country.

Amendment. A change or addition to a legal document such as the Constitution.

Anti-Federalists. Opponents of the Constitution during the ratification debate, who feared a strong national government and wanted a bill of rights.

Appeal. To ask a higher court to review and change a lower court's decision.

Appellate jurisdiction. The power of a court to review a decision made by a lower court.

Apportion. To divide and share out according to a rule, such as dividing House seats by population.

Appropriation. Money that a lawmaking body sets aside for a specific purpose.

Arsenal. A place where weapons and ammunition are made or stored.

Attest. To confirm officially that something is true or genuine, usually by signing.

Ballot. A way of voting, usually written and secret. Also the paper or form used to vote.

Bankruptcy. The legal process for dealing with a person or business that can't pay its debts.

Bicameral. Having two lawmaking houses, such as the House of Representatives and the Senate.

Bill. A proposed law.

Bill of attainder. A law that declares a person or group guilty and punishes them without a trial.

Bills of credit. Paper money issued by a government, promising to pay later.

Cabinet. The heads of the major executive departments, who advise the President.

Capitation. A tax of the same amount on each person. Also called a head tax or poll tax.

Census. An official count of the population. The Constitution requires one every ten years.

Certify. To officially confirm that something is true or correct.

Cession. Giving up land or rights to another government.

Checks and balances. The ways each branch of government can limit the power of the other branches.

Civil officer. A government official who is not in the military.

Cloture. A Senate vote to end debate on a question and move to a vote.

Commander in Chief. The person in charge of all the armed forces.

Commerce. Trade; the buying, selling and moving of goods and services.

Commerce Clause. The part of the Constitution that gives Congress power to regulate trade with foreign nations, among the states, and with Indian tribes.

Commission. An official paper that gives a person the authority of an office.

Compact. A formal agreement, especially between states.

Consul. An official who works in a foreign city to help a country's citizens and trade there.

Contract. A legal agreement between two or more people or groups.

Controversy. A legal dispute between two or more parties.

Convention. A formal meeting of delegates for a special purpose.

Copyright. The legal right of an author or creator to control copies of their work for a limited time.

Corruption of blood. An old English punishment that kept a convicted person's family from inheriting his property.

Counterfeiting. Making fake money or fake official documents to pass off as real.

Debt. Money that is owed to someone else.

Devolve. To pass power or duties to someone else.

Direct tax. A tax the Constitution says must be divided among the states by population.

Domestic. Inside the country, as opposed to foreign.

Domestic violence. In Article IV, an uprising or riot inside a state. (Today the phrase usually means abuse in a family.)

Duty. A tax on goods, especially goods brought into or out of a country.

Elector. A person chosen by a state to cast a vote for President and Vice President.

Electoral College. The group of electors from all the states and D.C. who choose the President and Vice President.

Electors. In this clause, the voters. Elsewhere in the Constitution, "electors" means the members of the Electoral College.

Emolument. A payment, profit or benefit that comes from holding an office or job.

Engagements. Promises or agreements, especially formal ones.

Enumeration. A count, such as the census.

Equity. A kind of court power to order someone to do or stop doing something, when money damages are not enough.

Erasure. A place where writing has been scraped or rubbed out.

Ex post facto law. A law that makes an act a crime after it was done, or increases the punishment after the fact. Latin for "after the fact."

Excise. A tax on making, selling or using certain goods inside a country.

Executive. Having to do with carrying out laws. The President heads the executive branch.

Executive power. The power to carry out and enforce the laws.

Expel. To force someone out of a group or office.

Export. To ship goods out of a state or country to sell them elsewhere.

Extradition. Sending a person accused of a crime back to the state or country where the crime was committed.

Federalism. A system that divides power between a national government and state governments.

Federalists. Supporters of the Constitution during the ratification debate of 1787 and 1788.

Forfeiture. Losing property as a punishment.

Fugitive. A person running away, especially from the law.

Fugitive Slave Clause. The clause in Article IV that required people who escaped from slavery to be returned. The Thirteenth Amendment ended its effect.

Full faith and credit. The duty of each state to honor the laws, records and court rulings of every other state.

Good behaviour. In Article III, the condition for keeping a federal judgeship, which in practice means judges serve for life unless removed by impeachment.

Great Compromise. The 1787 agreement that gave states equal votes in the Senate and seats based on population in the House. Also called the Connecticut Compromise.

Habeas corpus. A court order requiring that a person being held be brought before a judge, so the judge can decide if the person is being held lawfully. Latin for "you shall have the body."

High crimes and misdemeanors. The phrase the Constitution uses for serious wrongdoing by an official that can lead to impeachment. Its exact meaning is debated.

Impeachment. Formally charging a federal official with serious wrongdoing. The House impeaches; the Senate holds the trial.

Importation. Bringing something into a country from outside it.

Impost. A tax on goods brought into a country.

Inauguration. The ceremony that begins a President's term.

Inferior courts. Lower courts, below the Supreme Court.

Interlined. Written in between the lines of a text.

Judicial. Having to do with courts and judges. The Supreme Court heads the judicial branch.

Judicial power. The power to decide legal cases and controversies.

Judicial proceedings. The actions and decisions of a court.

Judicial review. The power of courts to decide whether a law or government action goes against the Constitution, and to refuse to enforce it if it does.

Jurisdiction. The power of a court to hear and decide a case.

Jury. A group of citizens chosen to hear the evidence in a trial and decide the facts.

Lame duck. An official who is still in office after losing an election or choosing not to run again, but whose term hasn't ended yet.

Law of nations. The rules that countries recognize in their dealings with each other; what we now call international law.

Legal tender. Money that the law says must be accepted to pay a debt.

Legislative. Having to do with making laws. Congress is the legislative branch.

Letter of marque and reprisal. A government license that allowed a private ship owner to attack and capture enemy ships in wartime.

Migration. Moving from one place to live in another.

Natural-born citizen. A term the Constitution uses for who may be President. It is generally read to mean a person who was a citizen from birth.

Naturalization. The legal process by which someone born in another country becomes a citizen.

Necessary and Proper Clause. The clause that lets Congress make all laws needed to carry out its listed powers. Also called the Elastic Clause.

Nominate. To name someone as a choice for an office.

Notwithstanding. In spite of.

Oath. A solemn promise, often calling on God as witness.

Ordain. To officially order or establish something.

Original jurisdiction. The power of a court to hear a case first, before any other court.

Override. To cancel a veto by a two-thirds vote in each house of Congress.

Overt act. An actual, outward action, as opposed to words or thoughts.

Pardon. An official act that forgives a crime and cancels the punishment.

Patent. The legal right of an inventor to make, use and sell an invention for a limited time.

Pocket veto. When a bill dies because the President doesn't sign it and Congress adjourns before he can return it.

Posterity. All the generations of people who come after us.

Preamble. An introduction that explains the purpose of a document.

Privileges and immunities. Basic rights and protections that belong to citizens.

Pro tempore. Latin for "for the time being"; temporary.

Propose. To put forward an idea for others to consider.

Pursuance. The act of carrying something out. "In pursuance of" means in keeping with or under the authority of.

Quorum. The minimum number of members who must be present for a group to do official business.

Ratify. To formally approve, making something official.

Recess. A break, when a legislature is not meeting.

Religious test. A requirement that a person hold certain religious beliefs or belong to a certain church to hold office.

Reprieve. A delay or cancellation of a punishment.

Republican form of government. A government in which the people elect representatives to make decisions for them. Not the same as the Republican Party.

Revenue. Money a government takes in, especially through taxes.

Separation of powers. Dividing government power among separate branches, so no single person or group holds it all.

Speaker. The leader of the House of Representatives, chosen by its members.

Speech or Debate Clause. The rule that members of Congress cannot be sued or prosecuted for what they say in their official work in Congress.

Staggered terms. Terms set up so that only part of a group is replaced at each election.

State of the Union. The President's report to Congress on the condition of the country, now given as a yearly speech.

Succession. The order in which people take over an office when it becomes empty.

Suffrage. The right to vote. In Article V, "equal Suffrage in the Senate" means each state's equal vote in the Senate.

Supremacy Clause. The clause in Article VI that makes the Constitution, federal laws made under it, and treaties the highest law of the land.

Suspend. To stop something for a period of time.

Territory. Land that belongs to the United States but is not part of any state.

Title of nobility. A rank such as duke or lord, passed down in a family and giving special status.

Tonnage. A tax on a ship based on how much cargo it can hold.

Tranquility. Peace and calm.

Treason. The crime of making war against your own country or helping its enemies.

Treasury. The government's supply of money, and the department that manages it.

Treaty. A formal written agreement between countries.

Tribunal. A court or other body that decides legal cases.

Unanimous. Agreed to by everyone.

Vested. Placed in or given to a person or group.

Veto. The President's power to reject a bill passed by Congress. Latin for "I forbid."

Writ. A formal written order from an official or a court.

Sources and Further Reading

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