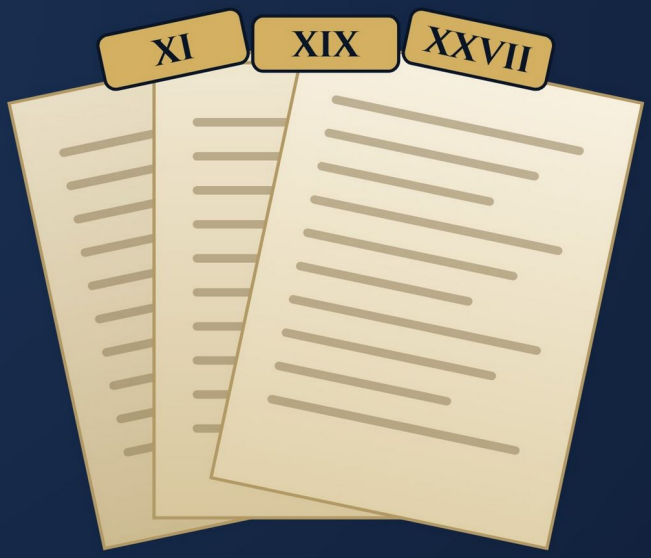
AMERICA'S FOUNDING DOCUMENTS IN PLAIN ENGLISH

THE LATER AMENDMENTS

in Plain English



AMENDMENTS 11–27 | LINE BY LINE | LANDMARK CASES | UNRATIFIED AMENDMENTS

Amendments 11 to 27, Explained Line by Line

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TRINFINITY
Enterprises

America's Founding Documents in Plain English

The Later Amendments in Plain English

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Andrew Dominguez

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The Later Amendments in Plain English: Amendments 11 to 27, Explained Line by Line

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

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Published by Trinfinity Enterprises, Dayton, Nevada.

First edition, 2026. Court decisions and events are current through October 2026.

This book explains the Constitution in plain language for general readers. It is not legal advice. Where judges, scholars or the public disagree, the book says so and describes the main views. This book is not affiliated with, sponsored by, or endorsed by the National Archives, the Library of Congress, the Supreme Court or any other organization named in it.

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Contents

How to Use This Book....1
Introduction: How the Constitution Gets Changed....2
Amendment 11: Lawsuits Against States....5
Amendment 12: Electing the President and Vice President....8
Amendment 13: The End of Slavery....12
Amendment 14: Citizenship, Due Process, and Equal Protection....15
Amendment 15: Voting Rights Regardless of Race....21
Amendment 16: The Federal Income Tax....24
Amendment 17: Voters Elect Their Senators....27
Amendment 18: Prohibition....30
Amendment 19: Women's Right to Vote....33
Amendment 20: When Terms Begin, and the Lame Duck Fix....35
Amendment 21: The End of Prohibition....39
Amendment 22: Two-Term Limit for Presidents....42
Amendment 23: Presidential Votes for Washington, D.C....45
Amendment 24: No Poll Taxes in Federal Elections....48
Amendment 25: When the President Dies, Resigns, or Can't Serve....50
Amendment 26: The Vote at 18....54
Amendment 27: Congress Can't Give Itself a Raise Right Away....56
Appendix: Amendments That Passed Congress but Were Never Ratified....58
Glossary....62
Sources and Further Reading....63
About the Author....64

How to Use This Book

This book walks through Amendments 11 through 27 of the United States Constitution, every amendment added after the Bill of Rights. For each one you will find the exact words first, then an explanation in plain English, the history behind it, the Supreme Court cases that shaped it, and a few questions to think about.

The exact wording comes from the National Archives transcription. Where the original wording uses an old or legal word, I explain it right there in the text.

I am not a lawyer, and this book is not legal advice. What I can do is help you read these amendments for yourself and understand how they have been used.

Some of these amendments are tied to the hardest chapters in our history, slavery and the Civil War among them, and some are part of arguments still going on today. Where Americans disagree, I lay out the main sides as fairly as I can and tell you who holds each view. I don't tell you which side to pick.

The first book in this series covers the Bill of Rights, the first ten amendments. You don't need to read it first, but I will point back to it now and then.

Introduction: How the Constitution Gets Changed

The Founders Expected Changes

The men who wrote the Constitution knew they hadn't gotten everything right, and they knew the country would change. So they built in a way to amend it, which means to change it. That process is in Article V.

They also made it hard on purpose. The Constitution is supposed to be the country's foundation, not something that shifts every time one party wins an election. That is why, in more than two hundred years, only 27 amendments have made it through, and ten of those came all at once as the Bill of Rights.

Step One: Proposing an Amendment

Article V gives two ways to propose an amendment.

The first way is through Congress. If two-thirds of the House and two-thirds of the Senate vote for it, the amendment goes to the states. Every one of the 27 amendments started this way.

The second way is a national convention. If two-thirds of the state legislatures, 34 of today's 50, apply for one, Congress must call a convention to propose amendments. This has never happened.

Note that the President has no formal role. An amendment does not go to the President to sign or veto.

Step Two: Ratifying an Amendment

An amendment only becomes part of the Constitution when three-fourths of the states ratify it. With 50 states, that is 38.

Congress decides how the states will ratify. Either the state legislatures vote, or each state holds a special ratifying convention. Congress has chosen state conventions only once, for the 21st Amendment, which ended Prohibition.

Congress can also set a time limit. Starting in the 1900s, Congress began giving states seven years to ratify. That deadline was usually written into the amendment itself, or into the resolution sending it to the states.

Who Keeps the Count

When enough states ratify, a federal official certifies the amendment and publishes it. Today that job belongs to the Archivist of the United States, who runs the National Archives.

Thousands Proposed, Few Approved

Members of Congress have introduced more than 11,000 proposed amendments over the years. Only 33 got the two-thirds vote in both houses and went out to the states. Of those, 27 were ratified. You'll find the six that weren't in the appendix at the back of this book.

The Amendments at a Glance

The amendments in this book fall into a few groups.

Amendments 11 and 12 fixed problems the Founders didn't see coming, one about lawsuits against states and one about electing the President.

Amendments 13, 14, and 15 came right after the Civil War. They ended slavery, made formerly enslaved people citizens with equal protection of the law, and protected the right to vote regardless of race. People often call them the Reconstruction Amendments.

Amendments 16 through 19 came in the early 1900s, sometimes called the Progressive Era. They created the federal income tax, gave voters the direct election of senators, started Prohibition, and gave women the vote.

Amendments 20 through 27 cover how government works: when terms begin, ending Prohibition, term limits for the President, votes for Washington, D.C., in presidential elections, banning poll taxes, what happens when a President dies or can't serve, the vote at age 18, and congressional pay.

Timeline

Date	What happened
February 7, 1795	11th Amendment ratified
June 15, 1804	12th Amendment ratified
December 6, 1865	13th Amendment ratified
July 9, 1868	14th Amendment ratified
February 3, 1870	15th Amendment ratified
February 3, 1913	16th Amendment ratified
April 8, 1913	17th Amendment ratified
January 16, 1919	18th Amendment ratified
August 18, 1920	19th Amendment ratified
January 23, 1933	20th Amendment ratified
December 5, 1933	21st Amendment ratified, repealing the 18th
February 27, 1951	22nd Amendment ratified
March 29, 1961	23rd Amendment ratified
January 23, 1964	24th Amendment ratified
February 10, 1967	25th Amendment ratified
July 1, 1971	26th Amendment ratified
May 7, 1992	27th Amendment ratified

Review Questions

1. What are the two ways to propose an amendment, and which one has never been used?
2. How many states must ratify an amendment today?
3. Why did the Founders make the Constitution hard to change?
4. What does the President do in the amendment process?

Amendment 11: Lawsuits Against States

In a Nutshell

Federal courts can't hear a lawsuit brought against a state by a citizen of another state or of a foreign country. The Supreme Court has read this broadly to mean states generally can't be sued for money in federal court without their consent, an idea called state sovereign immunity.

The Text

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

Why It Was Written

This amendment was a direct answer to one Supreme Court case. During the Revolutionary War, Georgia bought supplies from a South Carolina merchant named Robert Farquhar and never paid. After he died, the executor of his estate, Alexander Chisholm, sued Georgia in the Supreme Court to collect.

Georgia refused even to show up, arguing that a state can't be sued without its consent. In Chisholm v. Georgia in 1793, the Court ruled 4 to 1 against Georgia. It said Article III of the Constitution allowed lawsuits "between a State and Citizens of another State," and that meant a citizen could sue a state.

The states were alarmed. Many were still deep in debt from the war, and they feared a flood of lawsuits from creditors. Congress proposed this amendment in March 1794, less than a year after the decision, and it was ratified on February 7, 1795.

Line by Line

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

"Judicial power" means the power of the federal courts to hear and decide cases. "Construed" means interpreted or understood. "In law or equity" covers both main kinds of lawsuits, those for money and those asking a court to order someone to do or stop doing something.

"Commenced or prosecuted against one of the United States" means brought against one of the states. "Subjects of any Foreign State" means citizens of another country.

So the plain words say: the federal courts' power doesn't reach a lawsuit against a state brought by a citizen of a different state or of another country.

Notice what the words don't say. They don't mention a lawsuit by a citizen against his own state. The Supreme Court, as you'll see, has filled that gap.

Key Supreme Court Cases

Hans v. Louisiana, 134 U.S. 1 (1890)

Bernard Hans, a citizen of Louisiana, sued his own state in federal court over bonds the state had refused to pay. The text of the Eleventh Amendment didn't cover his case, since he was suing his own state. The Court threw out his suit anyway. It ruled that the amendment reflects a broader principle the Founders took for granted: a state, as a sovereign, can't be sued without its consent. Courts call this state sovereign immunity.

Ex parte Young, 209 U.S. 123 (1908)

Minnesota passed a law cutting railroad rates, with very heavy penalties for railroads that challenged it. Shareholders sued in federal court to stop the state's attorney general, Edward Young, from enforcing it. The Court ruled that a lawsuit asking a court to stop a state official from enforcing an unconstitutional law is not a lawsuit against the state itself, so the Eleventh Amendment doesn't block it. This is one of the most important rules in American law, because it is how people challenge unconstitutional state laws in federal court.

Seminole Tribe of Florida v. Florida, 517 U.S. 44 (1996)

The Court ruled 5 to 4 that Congress can't use its power to regulate commerce to let people sue states for money. Earlier, in Fitzpatrick v. Bitzer, 427 U.S. 445 (1976), the Court had ruled that Congress can let people sue states when it acts under the 14th Amendment's enforcement power, for example to remedy discrimination. Together, these cases mean the answer depends on which power Congress uses.

Where People Disagree

The debate is over Hans v. Louisiana and the cases built on it. One view holds the Court was right that the Founders assumed states could not be sued without consent, and that the amendment simply restored that understanding after Chisholm. Supporters say it protects state budgets and taxpayers from runaway lawsuits. Another view holds that the Court went far beyond the text, and that the rule now keeps people from getting money from states that have broken federal law. Several justices have written strong dissents along those lines.

What It Means for You

State sovereign immunity protects states and state agencies, not cities, counties, or school districts, which can usually be sued. If a state agency wrongs you, you can often still go to court to make it stop, and many states have passed their own laws allowing some lawsuits against them, often in a special state court of claims.

Review Questions

1. What case led to the Eleventh Amendment, and why were the states upset by it?
2. What do the words of the amendment cover, and what do they leave out?
3. How did Hans v. Louisiana go beyond the words?
4. Why is Ex parte Young so important?
5. Can you sue your city? Can you sue your state?

Amendment 12: Electing the President and Vice President

In a Nutshell

Members of the Electoral College cast one vote for President and a separate vote for Vice President. If no one wins a majority for President, the House of Representatives picks from the top three, with each state's delegation casting one vote. If no one wins a majority for Vice President, the Senate picks from the top two.

The Text

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

Why It Was Written

Under the original Constitution, each elector cast two votes for President, without marking which was for Vice President. The person with the most votes, if a majority, became President. The runner-up became Vice President.

That system broke down once political parties formed. In 1796, John Adams won the presidency, and his rival from the other party, Thomas Jefferson, came in second and became his Vice President. Imagine a President and Vice President who disagreed on almost everything.

Then came the election of 1800. Jefferson's party ran Jefferson for President and Aaron Burr for Vice President. Every elector from their party voted for both men, and they tied at 73 votes each. The tie went to the House, still controlled by the other party in its final months. It took 36 rounds of voting, from February 11 to February 17, 1801, before Jefferson won. The country saw how close it came to a crisis, and the 12th Amendment followed. It was ratified on June 15, 1804, in time for that year's election.

Line by Line

> The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate

"Electors" are the people chosen in each state to cast the state's votes for President. Together they are called the Electoral College. Each state gets as many electors as it has members of Congress (its House members plus its two senators), and since the 23rd Amendment, Washington, D.C., gets three.

The electors meet in their own states, not all together. They vote by "ballot," meaning a written vote, and they now vote separately for President and Vice President. At least one of the two people an elector votes for must live in a different state than the elector. That is meant to keep a state from favoring its own two favorite sons.

The electors make signed and sealed lists of the results and send them to the seat of government, addressed to the President of the Senate, who is the Vice President of the United States.

> the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; -- The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state

> having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice.

The votes are opened and counted before both houses of Congress. The person with a majority of all the electors' votes for President wins. A plurality, meaning just more than anyone else, isn't enough. With 538 electors, it takes 270.

If no one has a majority, the House of Representatives picks the President from the top three vote-getters. This is called a contingent election. Each state's delegation gets one vote, no matter how big the state is. Wyoming and California count the same. To win, a candidate needs a majority of the states, which today is 26.

The House has chosen the President this way once under the 12th Amendment. In 1824, four candidates split the electoral vote and none had a majority. Andrew Jackson had the most electoral votes, but in February 1825 the House chose John Quincy Adams.

> [And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. --]

This passage set a deadline of March 4 for the House to choose a President, and said the Vice President would act as President if it failed. The 20th Amendment later replaced this part, moving the start of the President's term to January 20 and setting new rules for this situation.

> The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

For Vice President, a majority of electoral votes also wins. If no one has a majority, the Senate picks from the top two, and each senator gets one vote. This has happened once, in 1837, when the Senate chose Richard Mentor Johnson.

The last line says no one who is ineligible to be President can be Vice President. So a Vice President has to meet the same requirements as a President: a natural born citizen, at least 35 years old, and a resident of the United States for 14 years.

Key Supreme Court Cases

Ray v. Blair, 343 U.S. 214 (1952)

Alabama's Democratic Party required people who wanted to be its presidential electors to pledge to support the party's nominee. The Court ruled that a party may require such a pledge.

Chiafalo v. Washington, 591 U.S. 578 (2020)

After the 2016 election, three Washington State electors voted for someone other than the candidate they had pledged to support, and the state fined them $1,000 each. These are often called faithless electors. The Court ruled unanimously that states may require electors to vote for the candidate who won the state's popular vote, and may punish or replace those who don't.

Where People Disagree

The Electoral College itself is one of the most argued-over parts of the Constitution. Five times, in 1824, 1876, 1888, 2000, and 2016, the person who became President did not win the most popular votes nationwide.

Supporters of the Electoral College argue it makes candidates pay attention to many different states rather than only big cities, fits the country's design as a union of states, and keeps disputes over close results contained within single states. Critics argue it means some votes count for more than others, that candidates ignore states that are safely red or blue, and that the person with the most votes should win. Proposals to replace it with a national popular vote have been made for decades.

There has also been debate about the rules for counting electoral votes in Congress. After the 2020 election, Congress passed the Electoral Count Reform Act of 2022 to make the counting process clearer.

What It Means for You

When you vote for President in November, you are really choosing your state's electors. In almost every state, the candidate who wins the state's popular vote gets all of its electors. Maine and Nebraska split some of theirs by congressional district.

Review Questions

1. How did the original system for electing the President and Vice President work?
2. What went wrong in the election of 1800?
3. How does the House vote when no candidate has a majority, and why might that seem unfair to large states?
4. What is a faithless elector, and what did Chiafalo v. Washington decide?
5. Name one argument for and one against the Electoral College.

Amendment 13: The End of Slavery

In a Nutshell

Slavery and forced labor are banned everywhere in the United States, except as punishment for someone duly convicted of a crime. Congress has the power to pass laws to enforce this ban, and the Supreme Court has said that includes laws against the lasting "badges and incidents" of slavery.

The Text

> Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.
>
> Congress shall have power to enforce this article by appropriate legislation.

Why It Was Written

The original Constitution never used the word "slavery," but it protected it in several places. It counted three-fifths of enslaved people when dividing up seats in the House. It barred Congress from ending the slave trade from overseas before 1808. And it required that people who escaped slavery into another state be returned to those who claimed them.

In 1857, in Dred Scott v. Sandford, the Supreme Court ruled that Black Americans, free or enslaved, could not be citizens, and that Congress could not ban slavery in the federal territories. That decision helped push the country toward war.

During the Civil War, President Abraham Lincoln issued the Emancipation Proclamation, which took effect on January 1, 1863. It declared enslaved people free in the areas then in rebellion. But it did not reach the slave states that stayed in the Union, and many questioned whether a wartime order would hold up once the war ended. Lincoln and his allies believed only a constitutional amendment could end slavery for good.

The Senate passed the amendment in April 1864. The House at first fell short of two-thirds, then passed it on January 31, 1865, after Lincoln took an active role in pushing it through. Lincoln was assassinated in April 1865 and did not live to see it ratified. Ratification was completed on December 6, 1865, when Georgia became the 27th of the 36 states to approve it.

Line by Line

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

"Slavery" means owning another person as property. "Involuntary servitude" means forcing someone to work against their will, even if no one claims to own them. Banning both was meant to close the door on schemes that might bring back slavery under another name.

"Within the United States, or any place subject to their jurisdiction" means everywhere the country's law reaches, including the territories.

Unlike most of the Constitution, this rule is not limited to the government. It applies to everyone. A private person who holds someone in forced labor violates the 13th Amendment too.

Then there is the exception: "except as a punishment for crime whereof the party shall have been duly convicted." A person duly convicted of a crime, meaning convicted through proper legal process, can be required to work as part of the punishment. After the war, Southern states passed Black Codes, harsh laws aimed at freed people, and many people were jailed for petty offenses like vagrancy. States and counties then leased prisoners out to work on farms, in mines, and on railroads, using this exception as cover. This practice was known as convict leasing.

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

This gives Congress the power to pass laws carrying out the ban. Right away, Congress passed the Civil Rights Act of 1866, which said all citizens have the same right to make contracts, own property, and go to court as "white citizens." Today, federal laws against human trafficking and forced labor rest in part on this power.

Key Supreme Court Cases

Civil Rights Cases, 109 U.S. 3 (1883)

The Civil Rights Act of 1875 banned racial discrimination in hotels, theaters, trains, and other public places. The Court struck it down 8 to 1. It ruled that refusing service to someone because of race was not a "badge of slavery" Congress could reach under the 13th Amendment, and that the 14th Amendment reached only actions by states, not private businesses. Justice John Marshall Harlan, a former slaveholder from Kentucky, was the lone dissenter. Congress did not pass a similar law until the Civil Rights Act of 1964, which rested on its power over commerce instead.

Bailey v. Alabama, 219 U.S. 219 (1911)

Alabama law made it a crime to take advance pay under a work contract and then quit, and treated quitting as proof of intent to cheat. Alonzo Bailey, a Black farm worker, was convicted under it. The Court struck down the law. It ruled that a state can't use the threat of criminal punishment to force a person to keep working off a debt. That system is called peonage, and the Court said it is a form of involuntary servitude.

Jones v. Alfred H. Mayer Co., 392 U.S. 409 (1968)

A developer near St. Louis refused to sell a home to Joseph Lee Jones because he was Black. The Court ruled 7 to 2 that the Civil Rights Act of 1866 bans racial discrimination in private sales of property, and

that Congress had the power to pass it under the 13th Amendment. The Court said Congress can decide what the "badges and incidents of slavery" are and pass laws to end them.

Where People Disagree

The punishment exception is under debate today. Critics argue it leaves a loophole for forced labor, and that prison work programs paying pennies an hour echo convict leasing. Several states have changed their own constitutions to remove a similar exception. Supporters of prison work argue it gives inmates job skills and structure, helps pay for prisons, and is a fair part of punishment. Proposals to change the 13th Amendment's exception have been introduced in Congress but have not passed.

What It Means for You

Forced labor is a crime in every state and under federal law. If you suspect someone is being held in forced labor or trafficked, the National Human Trafficking Hotline takes reports at 1-888-373-7888.

Review Questions

1. Where did the original Constitution protect slavery without using the word?
2. Why wasn't the Emancipation Proclamation enough?
3. How is the 13th Amendment different from most of the Constitution in whom it applies to?
4. What is the punishment exception, and how was it misused after the Civil War?
5. What did the Court mean by the "badges and incidents of slavery"?

Amendment 14: Citizenship, Due Process, and Equal Protection

In a Nutshell

Everyone born or naturalized in the United States, and subject to its jurisdiction, is a citizen. No state may take away a person's life, liberty, or property without due process of law, or deny any person the equal protection of the laws. Through this amendment, most of the Bill of Rights now limits state and local governments too.

The Text

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.
>
> Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.
>
> No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.
>
> The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.
>
> The Congress shall have power to enforce, by appropriate legislation, the provisions

> of this article.

Why It Was Written

The 13th Amendment ended slavery, but it didn't make formerly enslaved people citizens or guarantee them equal treatment. Within months, Southern legislatures filled with former Confederates passed "Black Codes," laws written to restrict the rights of freed people. Violence against freed people was widespread.

Congress responded with the Civil Rights Act of 1866. President Andrew Johnson vetoed it, and Congress overrode his veto. But many in Congress feared a future Congress could repeal the law, or that the Supreme Court would strike it down, since Dred Scott had said Black Americans could not be citizens. They wanted these protections written into the Constitution itself.

Congress passed the 14th Amendment on June 13, 1866. Most of the former Confederate states rejected it at first. Under the Reconstruction Acts of 1867, Congress required them to ratify it before they could regain representation in Congress. Ratification was completed on July 9, 1868.

Line by Line

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

This one paragraph holds four of the most important clauses in American law, so let me take them one at a time.

The Citizenship Clause is the first sentence. Anyone born in the United States, or "naturalized," meaning made a citizen through the legal process for immigrants, is a citizen of the country and of the state where they live, as long as they are "subject to the jurisdiction thereof." That sentence overturned Dred Scott. What "subject to the jurisdiction thereof" includes has been argued over ever since, and I come back to it below.

The Privileges or Immunities Clause says no state may make a law that cuts back the "privileges or immunities," meaning the rights, of citizens of the United States. Many people who wrote it expected it to be the main protection for the rights in the Bill of Rights. As you'll see in the Slaughter-House Cases, the Court read it very narrowly, and it has done little work since.

The Due Process Clause says no state may take away any "person's" life, liberty, or property without due process of law. It uses the same words as the Fifth Amendment, but this one limits the states. The Court has used it in two big ways. First, it is how most of the Bill of Rights was applied to the states, one right at a time, a process called incorporation. Second, the Court has read it to protect some rights not listed in the

Constitution, such as the right to marry and the right of parents to raise their children. That second use, called substantive due process, is one of the most argued-over ideas in American law.

The Equal Protection Clause says no state may deny any person within its jurisdiction "the equal protection of the laws." In plain words, the government has to treat people who are in the same situation the same way. It doesn't mean every law has to treat everyone identically. Laws draw lines all the time, such as a minimum age to drive. The question is whether the line is justified. Courts give the strongest scrutiny to laws that treat people differently by race or national origin. The government must show such a law is necessary to serve a very important goal, a test called strict scrutiny. Courts look closely, but a little less strictly, at laws that treat men and women differently. Most other laws only need a reasonable basis.

Notice the words "person" and "any person." The Due Process and Equal Protection Clauses protect every person in the country, not only citizens.

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

This section replaced the "three-fifths" rule in the original Constitution. From now on, every person in a state counts fully when dividing up seats in the House. "Indians not taxed" referred to Native Americans living under their own tribal governments, who were not counted.

The rest of the section was a penalty. If a state denied the vote to male citizens 21 or older, except for taking part in rebellion or other crime, its number of House seats would be cut in proportion. Congress hoped this would push Southern states to let Black men vote. The penalty has never actually been enforced.

This is also the first place the Constitution uses the word "male." Women's rights advocates of the day, like Susan B. Anthony and Elizabeth Cady Stanton, strongly objected. The 19th Amendment later protected women's right to vote, and the 26th lowered the voting age to 18.

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

> thirds of each House, remove such disability.

This section barred anyone who had taken an oath to support the Constitution as a federal or state official, and then "engaged in insurrection or rebellion" against it, from holding office again. It was aimed at former Confederate leaders. Congress can lift the bar by a two-thirds vote of each house, and it did so for most former Confederates with the Amnesty Act of 1872, and for the rest in 1898.

This section was mostly forgotten for over a century, until it came back into the news after January 6, 2021. See Trump v. Anderson below.

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

This section did two things. It promised the Union's war debts, including pensions for soldiers, would be paid. And it declared that no government would pay the Confederacy's debts or pay former slaveholders for the loss of the people they had enslaved. The first sentence, that the validity of the public debt "shall not be questioned," has come up in modern fights over the federal debt ceiling.

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

This gives Congress power to pass laws enforcing the amendment. The Court has said these laws must be aimed at preventing or fixing real violations, with a "congruence and proportionality" between the harm and the remedy. That test comes from City of Boerne v. Flores, 521 U.S. 507 (1997).

Key Supreme Court Cases

Slaughter-House Cases, 83 U.S. 36 (1873)

Louisiana gave one company control of all slaughterhouses in the New Orleans area. Local butchers sued, arguing the law took away their right to earn a living, a privilege of citizenship. The Court ruled 5 to 4 against them. It said the Privileges or Immunities Clause protects only a short list of rights that come from national citizenship, such as the right to travel to the national capital or to protection on the high seas. Most other rights, it said, were left to the states. That reading has never been overruled, which is why the Court later turned to the Due Process Clause instead.

Plessy v. Ferguson, 163 U.S. 537 (1896)

Louisiana required railroads to provide "equal but separate" cars for white and Black passengers. Homer Plessy, who was one-eighth Black, sat in a whites-only car as a planned challenge to the law and was arrested. The Court ruled 7 to 1 that separate facilities were constitutional if they were equal. This "separate but equal" rule gave legal cover to segregation for nearly sixty years. Justice Harlan dissented

again, writing that "our constitution is color-blind, and neither knows nor tolerates classes among citizens."

United States v. Wong Kim Ark, 169 U.S. 649 (1898)

Wong Kim Ark was born in San Francisco to Chinese parents who lived there legally but, under the laws of the time, could not become citizens. When he came back from a trip to China, officials refused to let him in, saying he wasn't a citizen. The Court ruled 6 to 2 that he was a citizen by birth under the 14th Amendment. The Court said the words "subject to the jurisdiction thereof" left out only a few narrow groups, such as children of foreign diplomats and of enemy forces occupying U.S. land, along with members of Native American tribes.

Brown v. Board of Education of Topeka, 347 U.S. 483 (1954)

Black children in Kansas, South Carolina, Virginia, and Delaware were required by law to attend separate schools. The Court ruled unanimously that "separate educational facilities are inherently unequal," overruling Plessy's rule for public education. Chief Justice Earl Warren wrote that separating children by race "generates a feeling of inferiority" that could affect them for life. A second ruling in 1955 ordered desegregation "with all deliberate speed," and many districts resisted for years.

Loving v. Virginia, 388 U.S. 1 (1967)

Mildred Loving, a woman of Black and Native American ancestry, and Richard Loving, a white man, married in Washington, D.C., and returned home to Virginia. They were arrested and convicted under Virginia's law banning interracial marriage. The judge suspended their one-year jail sentences on the condition that they leave Virginia for 25 years. The Court ruled unanimously that the law violated both the Equal Protection Clause and the Due Process Clause.

Obergefell v. Hodges, 576 U.S. 644 (2015)

Several same-sex couples challenged state laws in Ohio, Michigan, Kentucky, and Tennessee that banned same-sex marriage or refused to recognize those performed elsewhere. The Court ruled 5 to 4 that the Due Process and Equal Protection Clauses require states to license and recognize same-sex marriages. Justice Anthony Kennedy wrote for the majority. Chief Justice Roberts, in dissent, argued the Constitution doesn't address the question and it should have been left to voters and legislatures.

Trump v. Anderson, 601 U.S. 100 (2024)

Colorado voters sued to keep former President Donald Trump off the state's 2024 primary ballot, arguing that his conduct around January 6, 2021, made him ineligible under Section 3. The Colorado Supreme Court agreed. The U.S. Supreme Court unanimously reversed. It ruled that states may not enforce Section 3 against people running for federal office. That power belongs to Congress under Section 5. The justices did not decide whether he had engaged in insurrection.

Where People Disagree

Substantive due process is the deepest debate. Supporters say the word "liberty" must protect more than fair procedures, or the government could take away basic freedoms, like marriage and raising children, simply by passing a law with proper steps. Critics say the idea lets unelected judges create rights not

written in the Constitution, and point to past cases they see as mistakes, like Lochner v. New York, 198 U.S. 45 (1905), which struck down a law limiting bakers' work hours. The Court's 2022 Dobbs decision, covered in the Ninth Amendment chapter of the first book, put this debate back at the center.

Birthright citizenship was a second debate, and the Court has now settled it. Most courts and scholars had long read Wong Kim Ark to mean nearly every child born on U.S. soil is a citizen, including children of parents here illegally or only for a short time. Others argued that "subject to the jurisdiction thereof" requires full allegiance to the United States, which those parents don't owe. On January 20, 2025, President Trump signed Executive Order 14160, which said children born to parents unlawfully or temporarily in the country are not citizens. Courts blocked it, and the case reached the Supreme Court.

Trump v. Barbara, 609 U.S. ___ (2026)

On June 30, 2026, the Court ruled that children born in the United States to parents who are here unlawfully or temporarily are "subject to the jurisdiction" of the United States and are citizens at birth under the Citizenship Clause. Chief Justice Roberts wrote for the Court, joined by Justices Sotomayor, Kagan, Barrett, and Jackson. The opinion traced the rule back to English common law and to the country's rejection of Dred Scott. Justice Kavanaugh agreed the executive order could not be enforced, but only because it conflicts with a federal statute. He wrote that Congress could change that statute without violating the Constitution. Justices Thomas, Alito, and Gorsuch dissented.

Affirmative action is the third. In Students for Fair Admissions v. President and Fellows of Harvard College, 600 U.S. 181 (2023), the Court ruled that race-conscious college admissions at Harvard and the University of North Carolina violated the Equal Protection Clause and federal civil rights law. Supporters of the ruling say the Constitution requires treating each person without regard to race, echoing Harlan's dissent in Plessy. Critics say ignoring race makes it harder to remedy the lasting effects of past discrimination.

What It Means for You

Most of your rights against your state and local government come through this amendment. When a city police officer, a public school, or a state court has to respect your freedom of speech or your right to a lawyer, it's because the 14th Amendment applied that part of the Bill of Rights to them. If a state or local government treats you differently because of your race, sex, religion, or national origin, the Equal Protection Clause is often where a legal challenge starts.

Review Questions

1. Why did Congress want these protections in the Constitution and not only in a law?
2. What are the four clauses in Section 1, and what does each one do?
3. How did the Slaughter-House Cases change the path of the 14th Amendment?
4. How did Brown v. Board of Education differ from Plessy v. Ferguson?
5. What did Trump v. Anderson decide, and what did it leave undecided?

Amendment 15: Voting Rights Regardless of Race

In a Nutshell

Neither the federal government nor any state may deny or limit a citizen's right to vote because of race, color, or having once been enslaved. Congress has the power to enforce this, and the Voting Rights Act of 1965 is the best-known law it passed to do so.

The Text

> The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.
>
> The Congress shall have power to enforce this article by appropriate legislation.

Why It Was Written

The 14th Amendment punished states that kept men from voting by cutting their seats in the House, but it didn't actually forbid it. By 1868, Black men were voting across much of the South under federal Reconstruction rules, while many Northern states still refused to let Black men vote at all. Republicans in Congress wanted a nationwide guarantee that could not be undone.

Congress passed the 15th Amendment on February 26, 1869, and it was ratified on February 3, 1870. That same month, Hiram Revels of Mississippi took his seat as the first Black United States senator.

Line by Line

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

"Denied or abridged" means taken away completely or cut back. "Previous condition of servitude" means having once been enslaved.

Notice what this amendment does not say. It doesn't give anyone a right to vote outright. It forbids denying the vote for these particular reasons. States still set most voting rules, like age, residence, and registration, as long as they don't discriminate on these grounds. It also said nothing about sex, so women were left out until the 19th Amendment.

After Reconstruction ended in 1877, Southern states found ways around this amendment without mentioning race. They used poll taxes, which were fees to vote, and literacy tests that local officials gave unfairly. Some used "grandfather clauses," which excused a man from those tests if his grandfather could vote before 1867, a date that left out nearly every Black family. Others held "white primaries," where only white voters could take part in the party primary that decided the real winner. Together with violence

and threats, these methods kept Black voter registration very low across much of the South. As late as 1964, only about 6 percent of voting-age Black residents of Mississippi were registered, according to estimates the Supreme Court cited.

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

This is the enforcement power. Congress used it in the Enforcement Acts of 1870 and 1871, and again, far more effectively, in the Voting Rights Act of 1965. That law suspended literacy tests in the places it covered, sent federal examiners to register voters, and required certain states and counties with a history of discrimination to get federal approval before changing their voting rules. That approval process was called preclearance.

Key Supreme Court Cases

Guinn v. United States, 238 U.S. 347 (1915)

Oklahoma's constitution required a literacy test to vote, but excused anyone whose ancestors could vote on January 1, 1866. The Court unanimously struck down the grandfather clause as a clear attempt to get around the 15th Amendment.

Smith v. Allwright, 321 U.S. 649 (1944)

The Texas Democratic Party barred Black voters from its primary elections. Since the party argued it was a private club, it claimed the Constitution didn't apply. The Court ruled 8 to 1 that primaries are part of the state's election machinery, and excluding Black voters violated the 15th Amendment.

South Carolina v. Katzenbach, 383 U.S. 301 (1966)

South Carolina challenged the new Voting Rights Act. The Court upheld its main parts, ruling that Congress had broad power under Section 2 of the 15th Amendment to fight voting discrimination with strong remedies.

Shelby County v. Holder, 570 U.S. 529 (2013)

Shelby County, Alabama, challenged the formula that decided which places needed preclearance. The formula was based on voting data from the 1960s and early 1970s. The Court ruled 5 to 4 that using that old data was no longer justified and struck down the formula. That left preclearance with nowhere to apply unless Congress passes a new formula, which it hasn't. Chief Justice Roberts wrote that "our country has changed." Justice Ruth Bader Ginsburg, dissenting, wrote that throwing out preclearance because it had worked was "like throwing away your umbrella in a rainstorm because you are not getting wet."

Where People Disagree

The debate today is over how much protection voting still needs and who should give it. Supporters of Shelby County argue the South of 2013 was very different from the South of 1965, and federal law should treat all states equally. Critics point to new voting rules some formerly covered states passed after the

decision, and argue that preclearance had stopped discrimination before it happened. Bills to create a new formula have been introduced in Congress but have not passed.

A related fight is over Section 2 of the Voting Rights Act, which still applies nationwide and lets people sue over voting rules or district maps that weaken minority voters. In Allen v. Milligan, 599 U.S. 1 (2023), the Court ruled 5 to 4 that Alabama's congressional map likely violated Section 2. Some argue Section 2 forces states to draw lines by race, which the 14th and 15th Amendments are meant to forbid. Others argue it is still needed to keep minority voters from being shut out.

Louisiana v. Callais, 608 U.S. 85 (2026)

After a court ruled that Louisiana's 2022 congressional map likely violated Section 2 because it had only one majority-Black district, the state drew a new map with a second one. Other voters then challenged the new map as a racial gerrymander, meaning districts drawn mainly by race. On April 29, 2026, the Court ruled 6 to 3 that the new map was unconstitutional. Justice Samuel Alito wrote for the majority. The Court held that obeying Section 2 can justify drawing districts by race, but only when Section 2 truly requires it. Read properly, it said, Section 2 applies only when the evidence gives a strong inference that a state intentionally drew its districts to give minority voters less opportunity because of their race, and plaintiffs must separate the effects of race from those of party politics. Justice Elena Kagan, joined by Justices Sotomayor and Jackson, dissented. Supporters of the ruling say it keeps a law against discrimination from requiring discrimination of its own. Critics say it makes Section 2 much harder to use, at a time when they believe it is still needed.

What It Means for You

No government may keep you from voting because of your race or color. If you believe that happened to you, you can report it to the U.S. Department of Justice Civil Rights Division or to your state election office.

Review Questions

1. What does "previous condition of servitude" mean?
2. Why doesn't the 15th Amendment give anyone a right to vote outright?
3. Name three ways Southern states got around the 15th Amendment after Reconstruction.
4. What was preclearance, and what happened to it in Shelby County v. Holder?

Amendment 16: The Federal Income Tax

In a Nutshell

Congress may tax people's incomes from any source without dividing the tax among the states by population. This is the amendment that allows the federal income tax.

The Text

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

Why It Was Written

The original Constitution says any "direct" tax has to be "apportioned" among the states by population. That means if a state has 5 percent of the country's people, it has to pay 5 percent of the tax, no matter how rich or poor its people are. That's nearly impossible to do fairly with an income tax.

For most of the 1800s, the federal government ran mainly on tariffs, which are taxes on imported goods, and on taxes on things like liquor and tobacco. During the Civil War, Congress passed the first federal income tax. The Supreme Court upheld it in Springer v. United States in 1881, after it had already ended, ruling it was not a direct tax.

Then in 1894 Congress passed a new income tax in peacetime. In Pollock v. Farmers' Loan and Trust Co. in 1895, the Court ruled 5 to 4 that a tax on income from property, such as rent, interest, and dividends, was a direct tax. Since it wasn't apportioned, it was unconstitutional, and the whole law fell.

Over the next years, farmers, workers, and reformers argued that tariffs fell hardest on ordinary families, and that the wealthy should pay a fair share through an income tax. Congress passed this amendment on July 2, 1909, and it was ratified on February 3, 1913. Congress passed an income tax later that year. Because of generous exemptions and deductions, less than 1 percent of Americans paid it, and the basic rate was 1 percent of net income.

Line by Line

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

"Lay and collect" means set and gather. "Incomes, from whatever source derived" means income from any source: wages, business profits, rent, interest, or anything else. "Without apportionment" means the tax doesn't have to be divided among the states by population. "Without regard to any census or enumeration" says the same thing again, since apportionment was based on the census count.

Notice what the amendment doesn't say. It doesn't set any tax rates, define what "income" is, or create the tax itself. Congress does all of that by law, through the Internal Revenue Code. It also doesn't give Congress any new power to tax. Congress always had the power to tax incomes. This amendment just removed the apportionment rule that Pollock said applied.

Key Supreme Court Cases

Brushaber v. Union Pacific Railroad Co., 240 U.S. 1 (1916)

A stockholder challenged the 1913 income tax. The Court upheld it, explaining that the 16th Amendment didn't create a new taxing power. It removed the need to apportion an income tax, whatever its source.

Eisner v. Macomber, 252 U.S. 189 (1920)

The Court ruled that a stock dividend, extra shares a company gives its stockholders, was not "income," because the stockholder didn't receive anything separate from what they already owned. The case is known for describing income as a gain that has been received or "realized."

Moore v. United States, 602 U.S. 572 (2024)

A 2017 tax law taxed some Americans on profits that foreign companies they partly owned had earned but never paid out to them. Charles and Kathleen Moore argued they couldn't be taxed on money they never received. The Court ruled 7 to 2 that the tax was constitutional, because Congress can tax a company's shareholders on the company's realized income. The Court did not decide whether the 16th Amendment requires income to be realized before it can be taxed. Justices Thomas and Gorsuch dissented.

Where People Disagree

Some people argue that the 16th Amendment was never properly ratified, or that wages aren't income. Courts have rejected these arguments again and again, and the IRS warns that people who rely on them face penalties. I mention them only so you can recognize them.

The real debate is over tax policy, and Moore touched on one piece of it. Some lawmakers have proposed taxing very wealthy people on the growth in value of their assets each year, even if they haven't sold anything, or taxing wealth itself. Supporters say this is needed for fairness, since much of the wealth of the richest Americans is never taxed as income. Opponents argue a tax on unrealized gains or on wealth is a direct tax that would have to be apportioned, and would be unfair and hard to measure. Moore left that question for another day.

What It Means for You

The 16th Amendment is why you file a federal income tax return. The amendment only gives Congress the power. The rates, deductions, and credits you deal with come from laws Congress passes and changes.

Review Questions

1. What does "apportioned" mean, and why does it make an income tax so hard?

2. How did the federal government raise most of its money before the income tax?
3. What did Pollock v. Farmers' Loan and Trust Co. decide?
4. Did the 16th Amendment give Congress a new power to tax? Explain.
5. What question did Moore v. United States leave open?

Amendment 17: Voters Elect Their Senators

In a Nutshell

Each state's voters elect its two United States senators directly, for six-year terms. Before this amendment, state legislatures chose senators. When a Senate seat opens up, the governor calls an election to fill it, and the state legislature can let the governor appoint someone to serve until then.

The Text

> The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.
>
> When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.
>
> This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

Why It Was Written

The original Constitution said each state's legislature would choose its senators. The Founders meant the Senate to represent the states as governments, and to be a calmer, more independent body than the House.

By the late 1800s, the system had serious problems. Legislatures sometimes deadlocked for months or years, leaving states without full representation. In Delaware, a deadlock that began in 1899 kept the legislature from sending a senator to Washington for four years. There were also charges of bribery. In July 1912, the Senate declared the 1909 election of William Lorimer of Illinois invalid, after charges that he won his seat through bribery, and removed him.

Reformers began working around the system. Starting with Oregon, many states held popular votes for Senate candidates and pressed their legislators to choose the winner. By the time this amendment passed, a majority of states were already using some version of that method. Congress passed it on May 13, 1912, and it was ratified on April 8, 1913.

Line by Line

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

> most numerous branch of the State legislatures.

Each state still gets two senators, each serving six years with one vote. The big change is "elected by the people thereof," meaning by the voters of that state.

The second sentence says the people who can vote for senators are the same people who can vote for the larger house of the state legislature. That's the same rule the original Constitution uses for the House of Representatives. If you can vote for your state representative, you can vote for your U.S. senators.

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

When a seat becomes vacant, from a death, resignation, or removal, the governor must issue "writs of election," meaning orders calling an election to fill the seat. The state legislature may also allow the governor to appoint a temporary senator until that election happens. As of 2023, 46 states let the governor appoint a temporary senator. Four require an election before anyone can fill the seat.

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

This was a transition rule. Senators already chosen by legislatures when the amendment took effect got to finish their terms.

Key Cases

Valenti v. Rockefeller, 393 U.S. 405 (1969)

After Senator Robert F. Kennedy of New York was killed in 1968, the governor appointed a replacement to serve until the next regular general election, more than two years away. Voters sued, arguing the 17th Amendment required a quicker special election. A federal court upheld the timing, and the Supreme Court affirmed without a written opinion. States have room to decide when the election to fill a vacancy happens, within reason.

Where People Disagree

A few people have called for repealing the 17th Amendment. They argue it cut the states out of the national government, removed a check on federal power, and made senators depend on national fundraising and campaign politics. Supporters of the amendment answer that direct election ended corruption and deadlocks, and that voters, not party bosses in state capitals, should choose their senators. No repeal proposal has come close to passing.

What It Means for You

You vote for your two senators directly, though their elections are staggered so they're usually not on the same ballot. If a senator from your state leaves office early, check your state's law to see whether the governor appoints a replacement and when the special election will be.

Review Questions

1. How were senators chosen before the 17th Amendment?
2. What problems led to the change?
3. Who can vote in Senate elections?
4. What happens when a Senate seat becomes vacant?

Amendment 18: Prohibition

In a Nutshell

The 18th Amendment banned making, selling, transporting, importing, and exporting alcoholic drinks in the United States, starting one year after it was ratified. It is the only amendment that has ever been repealed. The 21st Amendment ended it in 1933.

The Text

> After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.
>
> The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.
>
> This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Why It Was Written

Americans in the 1800s drank a great deal more hard liquor than they do today, and drunkenness was blamed for poverty, broken homes, violence against women and children, and lost work. A temperance movement grew up to fight it. Groups like the Woman's Christian Temperance Union, founded in 1874, and the Anti-Saloon League, founded in 1893, pushed first for local and state bans, then for a national one. Between 1905 and 1917, states across the country passed their own laws banning the making and selling of alcohol.

The First World War helped. To save grain for the war effort, Congress had already passed wartime limits on making alcohol. Congress passed the amendment on December 18, 1917, and it was ratified on January 16, 1919.

Congress then passed the National Prohibition Act, better known as the Volstead Act, over President Woodrow Wilson's veto in October 1919. It defined "intoxicating liquors" as any drink with 0.5 percent alcohol or more, which banned beer and wine too. National Prohibition began on January 17, 1920.

Line by Line

> After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the

> jurisdiction thereof for beverage purposes is hereby prohibited.

"Intoxicating liquors" means alcoholic drinks. The amendment banned their "manufacture, sale, or transportation" within the country, and bringing them in or sending them out, "for beverage purposes." Alcohol made for other uses, such as industry, was left for Congress to regulate.

Notice what was not banned. The amendment did not make it illegal to drink alcohol, or to own alcohol you already had. People who could afford it stocked up before the deadline.

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

"Concurrent power" means both Congress and the states could pass laws to enforce Prohibition. That led to a patchwork. Some states enforced it strictly. Others did little.

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

This section gave the states seven years to ratify. It was the first amendment with a deadline written into it. Congress has used deadlines for most amendments since.

Key Supreme Court Cases

National Prohibition Cases, 253 U.S. 350 (1920)

Several challenges argued the 18th Amendment itself was invalid, for example because it intruded on states' powers too much to be a proper amendment. The Court rejected all of them and upheld both the amendment and the Volstead Act.

Olmstead v. United States, 277 U.S. 438 (1928)

Federal agents tapped the phone lines of Roy Olmstead, a Seattle bootlegger, without a warrant. The Court ruled 5 to 4 that wiretapping was not a search under the Fourth Amendment, since agents never entered his property. Justice Louis Brandeis dissented, writing about "the right to be let alone." The Court overruled Olmstead in Katz v. United States in 1967, covered in the Fourth Amendment chapter of the first book.

Looking Back

Prohibition did cut how much Americans drank, by most estimates, but it also created a huge illegal market. Bootleggers, speakeasies, and smuggling took off. Criminal organizations grew rich supplying illegal liquor, and gangsters like Al Capone in Chicago became famous. Enforcement was uneven and often corrupt. The government also lost a large source of tax money.

By the early 1930s, during the Great Depression, many former supporters had turned against it. Within about fourteen years, the country repealed it. Historians still debate how much good and harm it did, and people often point to it in arguments about drug policy today.

Review Questions

1. Why did the temperance movement want to ban alcohol?
2. What did the 18th Amendment ban, and what did it not ban?
3. What did the Volstead Act do?
4. What is "concurrent power"?
5. What were some of the unexpected results of Prohibition?

Amendment 19: Women's Right to Vote

In a Nutshell

Neither the federal government nor any state may deny or limit a citizen's right to vote because of sex. Ratified in 1920, it protected the vote for women across the country after more than seventy years of organized effort.

The Text

> The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.
>
> Congress shall have power to enforce this article by appropriate legislation.

Why It Was Written

In July 1848, about three hundred people met at Seneca Falls, New York, for the first women's rights convention in the United States. They adopted a Declaration of Sentiments, modeled on the Declaration of Independence, and one of its resolutions called for women's right to vote. That was the most controversial idea at the meeting.

After the Civil War, many suffragists, the name for people who worked for women's voting rights, hoped the 14th and 15th Amendments would include women. They didn't. In 1872, Susan B. Anthony voted in Rochester, New York, to test the question. She was arrested, convicted, and fined $100, which she refused to pay.

That same year, Virginia Minor of Missouri tried to register and was turned away. Her case reached the Supreme Court. In Minor v. Happersett in 1875, the Court ruled unanimously that women were citizens, but that citizenship did not automatically include the right to vote. After that, suffragists knew they needed an amendment.

Some states and territories moved first. The Wyoming Territory gave women the vote in 1869, and by 1919 women could vote in many Western states. An amendment with the same words as the 19th was first introduced in Congress in 1878, and it became known as the Anthony Amendment.

In the 1910s, suffragists split their efforts. Groups like the National American Woman Suffrage Association lobbied state by state and in Congress. The National Woman's Party, led by Alice Paul, picketed the White House starting in 1917. Many picketers were arrested, and some who went on hunger strikes in jail were force-fed.

Congress passed the amendment on June 4, 1919. On August 18, 1920, Tennessee became the 36th state to ratify, which completed ratification. In the Tennessee House, a 24-year-old legislator named Harry Burn changed his vote to yes. He later said a letter from his mother urging him to vote for it influenced him.

Line by Line

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

This uses the same pattern as the 15th Amendment, with "sex" in place of "race, color, or previous condition of servitude." Like the 15th, it doesn't give anyone the vote outright. It forbids using sex as a reason to deny it.

The amendment didn't end every barrier. Black women in much of the South still faced the same poll taxes, literacy tests, and violence that kept Black men from voting. Many Native American women weren't citizens until the Indian Citizenship Act of 1924, and some states kept other barriers for years after that. For many women, the full promise came only with the Voting Rights Act of 1965.

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

This is the enforcement power, the same as in the 15th Amendment.

Key Supreme Court Cases

Leser v. Garnett, 258 U.S. 130 (1922)

Two Maryland women registered to vote, and a man named Oscar Leser sued to strike them from the rolls. He argued that the 19th Amendment wasn't valid, partly because it added so many voters that it changed a state's electorate without its consent. The Court rejected every argument and unanimously upheld the amendment.

What It Means for You

If you are a woman, your right to vote is protected in every state by this amendment. August 26, the day in 1920 when the Secretary of State certified the amendment, is marked each year as Women's Equality Day.

Review Questions

1. What happened at Seneca Falls in 1848?
2. What did Minor v. Happersett decide, and why did it make an amendment necessary?
3. Why was it called the Anthony Amendment?
4. What role did Harry Burn play in ratification?
5. Which women still faced barriers to voting after 1920, and why?

Amendment 20: When Terms Begin, and the Lame Duck Fix

In a Nutshell

The President's and Vice President's terms begin at noon on January 20, and Congress's terms begin at noon on January 3. It also says what happens if a President-elect dies or hasn't been chosen by Inauguration Day. It shortened the long gap between an election and the start of the new government.

The Text

> The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.
>
> The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.
>
> If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.
>
> The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.
>
> Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.
>
> This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

Why It Was Written

Under the old schedule, the President took office on March 4, four months after the November election. Congress was worse. The Constitution said Congress would meet each year on the first Monday in December, so a newly elected Congress often didn't meet until thirteen months after it was elected.

Meanwhile, the old Congress kept meeting after the election in what's called a "lame duck" session. A lame duck is an official still in office after someone else has been elected to replace them. Members who had just been voted out could still pass laws.

Senator George Norris of Nebraska sponsored the fix, and this amendment is often called the Lame Duck Amendment. Congress passed it on March 2, 1932, and it was ratified on January 23, 1933.

The long wait between election and inauguration became painful that very winter. Franklin D. Roosevelt beat President Herbert Hoover in November 1932 during the Great Depression, and in the last two weeks before Roosevelt took office, frightened people pulled more than $1.2 billion out of the nation's banks. Roosevelt was the last President inaugurated on March 4. His second inauguration, in 1937, was the first held on January 20.

Line by Line

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

This sets the new start dates: noon on January 20 for the President and Vice President, and noon on January 3 for members of Congress. The phrase "of the years in which such terms would have ended" just made sure the change didn't add or subtract a full term from anyone.

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

Congress must meet at least once a year, starting January 3, unless it passes a law choosing a different day. Congress sometimes does set another date for the start of a session.

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

This answers some "what if" questions about Inauguration Day.

If the President-elect dies before the term starts, the Vice President-elect becomes President.

If no President has been chosen by January 20, for example because the election went to the House and it hasn't decided, or if the President-elect "shall have failed to qualify," meaning doesn't meet the requirements for the office, then the Vice President-elect acts as President until a President qualifies.

If neither has qualified, Congress can pass a law saying who acts as President. It has, in the Presidential Succession Act of 1947, which puts the Speaker of the House next, then the President pro tempore of the Senate, then members of the Cabinet.

This section replaced the part of the 12th Amendment that set a March 4 deadline for the House.

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

If a candidate dies while the House is choosing a President or the Senate is choosing a Vice President under the 12th Amendment, Congress may pass a law saying what happens.

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

Sections 1 and 2 took effect on October 15, 1933.

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

The states had seven years to ratify. They took less than one.

Key Cases

The Supreme Court has never decided a major case about the 20th Amendment. Most of its work is simply done every January.

What It Means for You

Every four years, the President is sworn in at noon on January 20. If you're watching the swearing-in of a new Congress, that's January 3 at noon, unless Congress has set another date that year. The lame-duck period still exists, between the November election and those January dates, but it's much shorter than it used to be.

Review Questions

1. What is a lame duck?
2. What were the old start dates for the President and Congress?
3. What happens if the President-elect dies before Inauguration Day?
4. What law says who acts as President if neither the President-elect nor the Vice President-elect has qualified?

Amendment 21: The End of Prohibition

In a Nutshell

The 21st Amendment repealed the 18th, ending national Prohibition. It also lets each state control alcohol within its borders, and makes it a federal constitutional violation to bring alcohol into a state against that state's laws.

The Text

> The eighteenth article of amendment to the Constitution of the United States is hereby repealed.
>
> The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.
>
> This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Why It Was Written

By the early 1930s, many Americans believed Prohibition had failed. Organized crime had grown, respect for the law had fallen, and governments had lost tax money they badly needed in the Great Depression. In 1932, the Democratic Party platform called for repeal, and Franklin Roosevelt won in a landslide.

Congress passed the 21st Amendment on February 20, 1933. That March, Congress also changed the Volstead Act to allow beer and wine of up to 3.2 percent alcohol. Ratification was completed on December 5, 1933, when Utah became the 36th state to approve it.

Line by Line

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

To "repeal" means to cancel. The 18th Amendment is no longer in force. It's the only time an amendment has been repealed.

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

This section is still active, and it matters more than people expect. It forbids bringing alcohol into a state "in violation of the laws thereof," meaning against that state's alcohol laws. In practice, it gives states broad power to regulate alcohol inside their borders. That's why alcohol laws vary so much from place to place: who can sell it, when, where, and how. Some counties are still "dry," meaning alcohol sales are banned there. Mississippi was the last state to end statewide prohibition, in 1966.

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

This was the only time Congress has required ratification by state conventions instead of state legislatures. Repeal supporters worried that legislatures, where dry interests were strong, would block it. In conventions, voters elected delegates specifically on the question of repeal, so it worked much like a direct vote of the people.

Key Supreme Court Cases

Craig v. Boren, 429 U.S. 190 (1976)

Oklahoma let women buy low-alcohol beer at 18 but made men wait until 21. The Court struck down the law under the Equal Protection Clause, and ruled that the 21st Amendment doesn't give states the power to ignore other parts of the Constitution. The case is best known for setting the "intermediate scrutiny" test for laws that treat men and women differently.

South Dakota v. Dole, 483 U.S. 203 (1987)

Congress passed a law withholding part of a state's federal highway money unless it set its drinking age at 21. South Dakota, which let 19-year-olds buy some beer, sued. The Court ruled 7 to 2 that Congress could attach this condition to federal money, since the state was still free to say no. That's how 21 became the drinking age in every state.

Granholm v. Heald, 544 U.S. 460 (2005)

Michigan and New York let in-state wineries ship directly to customers but barred out-of-state wineries from doing the same. The Court ruled 5 to 4 that the 21st Amendment doesn't let a state favor its own businesses over those from other states.

Where People Disagree

The live debate is about how far a state's power over alcohol reaches. States argue that strict rules, such as requiring alcohol to go through licensed in-state wholesalers, protect public health and help collect taxes. Critics argue some of those rules mainly protect in-state businesses from competition. In Tennessee Wine and Spirits Retailers Association v. Thomas, 588 U.S. 504 (2019), the Court struck down Tennessee's rule that a person had to live in the state for two years before getting a liquor store license.

What It Means for You

Your state, and often your county or city, sets the rules for buying alcohol. The federal government sets the drinking age indirectly, through highway money. Before you ship wine or liquor across state lines, check the laws of the state it's going to.

Review Questions

1. Why did many Americans turn against Prohibition by the early 1930s?
2. Why did Congress require ratification by state conventions?
3. What power does Section 2 give the states?
4. How did South Dakota v. Dole lead to a drinking age of 21 in every state?

Amendment 22: Two-Term Limit for Presidents

In a Nutshell

No one may be elected President more than twice. Someone who served more than two years of another person's term may be elected only once. In practice, a President can serve at most about ten years.

The Text

> No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.
>
> This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

Why It Was Written

George Washington stepped down after two terms in 1797. Thomas Jefferson followed his example, and for nearly 150 years no President served more than two terms. That changed with Franklin D. Roosevelt.

Roosevelt won in 1932, 1936, 1940, and 1944, leading the country through the Great Depression and most of the Second World War. He died on April 12, 1945, early in his fourth term.

In the 1946 elections, Republicans won control of both the House and the Senate, and they made a constitutional limit a priority. Supporters argued that no one person should hold that much power for that long. Congress passed the amendment on March 21, 1947, and it was ratified on February 27, 1951.

Line by Line

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

> remainder of such term.

The first rule is plain. No one may be "elected" President more than twice.

The second rule covers someone who takes over in the middle of another President's term, usually a Vice President whose President died or resigned. If that person serves more than two years of the term, they can be elected only once more. If they serve two years or less, they can be elected twice more. So the most anyone can serve is two years plus two full terms, a total of ten years.

The last sentence was a grandfather clause. It didn't apply to whoever was President when Congress proposed it, which was Harry Truman. He could have run again in 1952, but on March 29, 1952, he announced he would not.

Notice the amendment limits being "elected," not serving. Some scholars ask whether a two-term President could become President another way, such as by being elected Vice President and then taking over. Others answer that the 12th Amendment closes that door, since it says no one "constitutionally ineligible" to be President can be Vice President. The question has never been tested.

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

The states had seven years to ratify. It took them almost four.

Key Cases

The Supreme Court has never decided a case about the 22nd Amendment.

Where People Disagree

Supporters of the two-term limit say it guards against any one person gaining too much power, forces new leadership, and keeps the presidency from turning into something like a monarchy. Critics argue it takes a choice away from voters, who should be free to keep a President they like, and that it weakens a President in the second term, since everyone knows they're leaving. Proposals to repeal the 22nd Amendment have been introduced in Congress over the years, and none has advanced.

What It Means for You

A President you vote for in a re-election year is running for the last time. Every second-term President is, from the start, a President whose replacement you'll pick in four years.

Review Questions

1. What tradition did George Washington start?
2. Why did Congress propose the 22nd Amendment after Franklin Roosevelt?

3. What is the most time a person could serve as President, and how?
4. Why does the word "elected" matter in this amendment?

Amendment 23: Presidential Votes for Washington, D.C.

In a Nutshell

Residents of Washington, D.C., get to vote for President and Vice President. The District gets electors as if it were a state, but never more than the smallest state, which today means three.

The Text

> The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:
>
> A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.
>
> The Congress shall have power to enforce this article by appropriate legislation.

Why It Was Written

The Constitution created a federal district, separate from any state, to be the seat of the national government. Since only states choose presidential electors, people living in the District of Columbia had no vote for President at all.

By 1960, more than three-quarters of a million people lived in D.C. They had the same duties as other citizens, and the District paid more in federal taxes than several states. Congress passed this amendment on June 16, 1960, and it was ratified on March 29, 1961. D.C. residents first voted for President in 1964.

Line by Line

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

"The District constituting the seat of Government" is Washington, D.C. "In such manner as the Congress may direct" means Congress decides how D.C. picks its electors. Congress set it up so D.C. picks them by popular vote, the same as the states.

> A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if

> it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

D.C. gets as many electors as it would have senators and representatives if it were a state, "but in no event more than the least populous State." Since every state has at least three electors, two senators plus at least one House member, D.C. has three. Even if D.C. grew larger than several states, it would still be capped at the number for the smallest state.

D.C.'s electors count the same as any state's, and they meet in the District and follow the 12th Amendment's rules.

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

This is the enforcement power.

Key Cases

There are no major Supreme Court cases about the 23rd Amendment.

Where People Disagree

The 23rd Amendment gave D.C. residents a vote for President, but not for Congress. D.C. elects one delegate to the House, who can speak in debate and serve on committees but can't vote in the full House. It has no senators.

Supporters of D.C. statehood argue that hundreds of thousands of Americans, more than the population of some states, pay federal taxes without full representation in Congress, and that the fix is to make most of the District a state. Opponents argue the Founders intended the capital to be outside any state, that statehood would require a constitutional amendment rather than a law, and that the more fitting fix, if any, would be returning most of D.C. to Maryland. In 1978, Congress sent the states an amendment to give D.C. full voting representation in Congress. Not enough states ratified it, and it expired in 1985. You can read about it in the appendix.

What It Means for You

If you live in Washington, D.C., you can vote for President, and your three electors count the same as those of any state with three electors.

Review Questions

1. Why couldn't D.C. residents vote for President before 1961?
2. How many electors does D.C. have, and why can't it have more than the smallest state?

3. Does the 23rd Amendment give D.C. voting members of Congress?

Amendment 24: No Poll Taxes in Federal Elections

In a Nutshell

No one can be kept from voting in a federal election, including primaries, because they didn't pay a poll tax or any other tax. The Supreme Court later ruled that poll taxes are banned in state elections too.

The Text

> The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.
>
> The Congress shall have power to enforce this article by appropriate legislation.

Why It Was Written

A poll tax is a fee a person had to pay in order to vote. After Reconstruction, Southern states used poll taxes, along with literacy tests, to keep Black citizens, and many poor white citizens, away from the polls. In some states the tax added up from year to year if left unpaid, and payment was often due several months before the election, when it was easy to forget.

Congress passed this amendment on August 27, 1962, and it was ratified on January 23, 1964. By then, only five states still had a poll tax: Alabama, Arkansas, Mississippi, Texas, and Virginia.

Line by Line

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

This covers elections for President, Vice President, presidential electors, and members of Congress, and "any primary or other election" for those offices. Including primaries was important, since in much of the South the party primary decided who would win.

"Poll tax or other tax" means the vote can't depend on paying any tax at all, so a state couldn't simply rename the fee.

Notice that it covers only federal offices. State and local elections weren't included, though the Supreme Court soon dealt with those under the 14th Amendment.

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

This is the enforcement power.

Key Supreme Court Cases

Harman v. Forssenius, 380 U.S. 528 (1965)

Virginia tried to get around the amendment. It told voters in federal elections that they could skip the poll tax only if they filed a certificate of residence six months before the election. The Court unanimously struck this down, ruling that a state can't put an extra burden on people who choose not to pay a poll tax.

Harper v. Virginia State Board of Elections, 383 U.S. 663 (1966)

Virginia still charged a $1.50 poll tax for state elections. The Court ruled 6 to 3 that making payment of any fee a condition of voting violates the Equal Protection Clause of the 14th Amendment, because wealth has nothing to do with a person's ability to vote wisely. That ended poll taxes in state elections too. It overruled Breedlove v. Suttles, 302 U.S. 277 (1937), which had upheld them.

Where People Disagree

Today's debate is over voting rules that cost something indirectly. One example is voter ID laws. In Crawford v. Marion County Election Board, 553 U.S. 181 (2008), the Court upheld Indiana's photo ID law, partly because the state offered a free ID card. Supporters of ID laws say they prevent fraud and build trust in elections. Critics argue the time and cost of getting documents, like a birth certificate, falls hardest on poor, elderly, and minority voters, and works like a modern poll tax.

Another example involves people with past felony convictions who must pay fines and fees before their voting rights are restored. Some argue this is a poll tax by another name. In 2020, a federal appeals court disagreed in a Florida case, ruling that those debts are part of a criminal sentence, not a tax.

What It Means for You

No one can charge you money to vote, in any election, federal, state, or local. If you're ever told you must pay a fee before you can cast a ballot, that is unlawful.

Review Questions

1. What is a poll tax, and why did some states use it?
2. Why did it matter that the amendment covers primary elections?
3. How did Harper v. Virginia extend the ban to state elections?
4. Why do some people compare voter ID costs to a poll tax, and what do others say in response?

Amendment 25: When the President Dies, Resigns, or Can't Serve

In a Nutshell

If the President dies, resigns, or is removed, the Vice President becomes President. If the vice presidency is vacant, the President nominates a new Vice President, who must be confirmed by both houses of Congress. And if the President is unable to do the job, the amendment sets out how the Vice President takes over as Acting President, either at the President's own request or, in rare cases, without it.

The Text

> In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.
>
> Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.
>
> Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.
>
> Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.
>
> Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

Why It Was Written

The original Constitution left big gaps. It said the powers of the office would "devolve on" the Vice President if the President died, resigned, or was unable to serve, but it didn't say whether the Vice President actually became President or only acted as one. It said nothing about how to decide if a President was unable to serve, and nothing about filling a vacant vice presidency.

The first question came up in 1841, when President William Henry Harrison died of illness shortly after taking office. Vice President John Tyler insisted he was now fully President, not just acting, and took the oath. That became known as the Tyler precedent, and later Vice Presidents followed it.

The disability question was harder. After President Woodrow Wilson suffered a stroke in 1919, Vice President Thomas Marshall refused to declare him disabled and take over, and important national business went unaddressed. When President Dwight Eisenhower had a heart attack in 1955, there was again no clear rule.

Then President John F. Kennedy was assassinated on November 22, 1963. Vice President Lyndon Johnson became President, and for over a year the country had no Vice President. Next in line under the law were the Speaker of the House, then 71 years old, and the President pro tempore of the Senate, then 86. Senator Birch Bayh of Indiana, the amendment's principal author, introduced a fix in December 1963. Congress passed the amendment on July 6, 1965, and it was ratified on February 10, 1967.

Line by Line

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

This settles the Tyler question for good. When a President is removed, dies, or resigns, the Vice President "shall become President," not just act as one.

It has been used once since 1967. When Richard Nixon resigned on August 9, 1974, Vice President Gerald Ford became President. Before 1967, eight Presidents had died in office, and in each case the Vice President had taken over under the Tyler precedent.

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

If the vice presidency is empty, the President picks a new Vice President, and that person takes office after a majority vote in both the House and the Senate.

This section has been used twice, both in the 1970s. In October 1973, Vice President Spiro Agnew resigned during a bribery and corruption investigation. President Nixon nominated Gerald Ford, the House Republican leader, and Congress confirmed him in December 1973. When Ford became President less than a year later, he nominated Nelson Rockefeller, who took office in December 1974 after a nearly four-month confirmation process. For a little over two years, neither the President nor the Vice President had been elected to those offices.

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

This lets a President hand power to the Vice President temporarily, for example during surgery under anesthesia. The President sends a written declaration to the President pro tempore of the Senate and the Speaker of the House. The Vice President becomes "Acting President" until the President sends a second letter taking the powers back.

President Ronald Reagan used it informally, without formally invoking it, before cancer surgery in July 1985. President George W. Bush formally used this section twice, in 2002 and 2007, during colonoscopies, and President Joe Biden used it in November 2021 for the same reason. Each time, the Vice President was Acting President for a matter of hours.

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

This is the section people talk about most and the one that's never been used. If the Vice President and a majority of the Cabinet, the "principal officers of the executive departments," send a written declaration that the President is unable to do the job, the Vice President immediately becomes Acting President. Congress could set up a different body to make this call instead of the Cabinet, but it never has.

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

If the President then declares in writing that "no inability exists," the President takes back the office, unless the Vice President and a majority of the Cabinet disagree in writing within four days. Then

Congress decides. It must meet within 48 hours if it's not in session, and it has 21 days to vote. Removing the President's powers takes a two-thirds vote of both the House and the Senate. If Congress doesn't reach two-thirds, the President takes back the office.

This paragraph says "the executive department," singular, while the paragraph before says "executive departments." That small difference is in the original. Official government printings note it as "so in original."

Notice that this is not impeachment. Impeachment is for wrongdoing and removes a President from office for good. Section 4 is about inability, and it can be reversed if the President recovers.

Key Cases

The Supreme Court has never decided a case about the 25th Amendment. Its history comes from how Presidents and Congress have used it.

Where People Disagree

The main debate is about Section 4. Some argue it's too hard to use, since it requires the Vice President to move against the President who chose them, and the Cabinet members the President appointed. Others argue that's exactly right. It should be hard, so it can't become a back door for removing a President over political disagreements. People also argue over what counts as "unable." The record of the debates in Congress shows the authors had physical or mental inability in mind, and they worried about Section 4 being used for political purposes. Many argue that disagreements over a President's policies or behavior are matters for elections and impeachment instead.

What It Means for You

The 25th Amendment means the country always has a clear answer to the question, "Who's in charge?" Even during surgery, someone with the full powers of the President is on duty.

Review Questions

1. What was the Tyler precedent?
2. Why did the assassination of John F. Kennedy push Congress to act?
3. How did Gerald Ford become Vice President, and then President?
4. What is the difference between Section 3 and Section 4?
5. How is Section 4 different from impeachment?

Amendment 26: The Vote at 18

In a Nutshell

No government may deny the vote to a citizen who is 18 or older because of age. Before 1971, most states set the voting age at 21.

The Text

> The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.
>
> The Congress shall have power to enforce this article by appropriate legislation.

Why It Was Written

For most of American history, 21 was the usual voting age. During the Second World War, Congress lowered the minimum draft age to 18, and a slogan took hold: "Old enough to fight, old enough to vote." Georgia lowered its voting age to 18 in 1943, and a few other states followed over the next decades.

The argument grew much stronger during the Vietnam War, when young men who couldn't vote were being drafted and sent to fight. In 1970, Congress passed a law setting the voting age at 18 for all federal, state, and local elections. In Oregon v. Mitchell, decided later that year, a divided Supreme Court ruled that Congress could set the age for federal elections but not for state and local ones.

That left states facing a mess: two sets of registration books and separate election systems, one for federal elections and one for everything else. Congress passed this amendment on March 23, 1971, and it was ratified on July 1, 1971, in about 100 days. That made it the fastest amendment ever ratified.

Line by Line

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

Like the 15th and 19th Amendments, this one is written as a ban. Neither the federal government nor any state may deny or limit the vote "on account of age" to citizens who are 18 or older.

Notice what it does not do. It doesn't stop a state from letting people younger than 18 vote. A few cities let 16- and 17-year-olds vote in local elections, starting with Takoma Park, Maryland, in 2013. Some states let 17-year-olds vote in a primary if they'll turn 18 by the general election.

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

This is the enforcement power.

Key Cases

The Supreme Court has not decided any case that fully interprets the 26th Amendment. Most disputes since 1971 have been in lower courts, many about where college students may register. In Symm v. United States, 439 U.S. 1105 (1979), the Court let stand, without a full opinion, a lower court ruling that a Texas county could not make students living on campus fill out a special residency questionnaire to register.

Where People Disagree

Some people argue the voting age should be lowered again, to 16. Supporters say 16-year-olds work, pay taxes, drive, and are affected by government decisions, and that people who start voting young keep voting. Opponents say most 16-year-olds are still living under their parents' authority and are not yet mature enough. Some also point to other laws, like the drinking age, that set 21 as the line for adulthood.

What It Means for You

If you're 18 and a citizen, you can vote in every election in the country. Check your state's rules, since some let you register before you turn 18 so you're ready on your birthday.

Review Questions

1. What slogan helped push for the vote at 18, and where did it come from?
2. What did Oregon v. Mitchell decide, and what problem did it create?
3. How long did it take the states to ratify the 26th Amendment?
4. Can a state let people younger than 18 vote?

Amendment 27: Congress Can't Give Itself a Raise Right Away

In a Nutshell

If Congress changes its own members' pay, the change can't take effect until after the next election for the House of Representatives. That way voters get a say before any raise kicks in. Proposed in 1789, it wasn't ratified until 1992.

The Text

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

Why It Was Written

This amendment was part of the twelve that Congress sent to the states on September 25, 1789, along with what became the Bill of Rights. It was second on the list. Back in 1787, James Madison had argued that it would be "an indecent thing" for members of Congress to set their own pay.

By the end of 1791, only six states had ratified it, not enough at the time, and it was mostly forgotten. Ohio ratified it in 1873 to protest a congressional pay raise, and Wyoming did so in 1978.

Then in 1982, a University of Texas student named Gregory Watson wrote a paper about it for a political science class. He argued it was still pending, since Congress had never set a deadline. He got a C. (Thirty-five years later, his professor changed the grade to an A.) Watson started a letter-writing campaign to state legislators across the country. From the mid-1980s to the early 1990s, more than 30 state legislatures ratified it. On May 7, 1992, Michigan became the 38th state, completing ratification more than 202 years after Congress proposed it.

Line by Line

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

"Varying the compensation" means changing the pay, raising it or lowering it. "Until an election of Representatives shall have intervened" means a House election has to happen in between. Since House elections are every two years, a pay change passed now takes effect only after the next one.

The point is accountability. If members of Congress vote themselves a raise, voters get to weigh in at the ballot box before the money shows up.

Key Cases

Coleman v. Miller, 307 U.S. 433 (1939)

This earlier case, about the Child Labor Amendment, matters a great deal here. The Court's opinion suggested that when an amendment has no deadline, whether it was ratified within a reasonable time is a question for Congress, not the courts. In 1992, the Archivist of the United States certified the 27th Amendment on May 18. The Constitution doesn't require Congress to sign off, but the House and the Senate each passed a resolution recognizing it as adopted.

Boehner v. Anderson, 30 F.3d 156 (1994)

Representative John Boehner sued, arguing that the automatic yearly cost-of-living increases in congressional pay, set up by a 1989 law, violated the 27th Amendment. A federal appeals court in Washington, D.C., ruled the increases were allowed, because the law setting them up was passed before an intervening election. This was a lower court decision, not a Supreme Court one.

Where People Disagree

The debate over the 27th Amendment is really about Article V. Some legal scholars argued an amendment proposed in 1789 had gone stale, and that ratification spread over two centuries doesn't reflect the will of any one generation. Others answered that the Constitution sets no time limit unless Congress writes one, and that Coleman v. Miller gave Congress the final say, which it used. The same question, about deadlines and timing, is at the center of the fight over the Equal Rights Amendment, covered in the appendix.

What It Means for You

When you hear Congress debating its own pay, remember that whatever it decides won't take effect until after you've had a chance to vote in the next House election.

Review Questions

1. When was the 27th Amendment first proposed, and when was it ratified?
2. Who was Gregory Watson, and what did he do?
3. What does "until an election of Representatives shall have intervened" mean?
4. Why did the long time between proposal and ratification raise questions?

Appendix: Amendments That Passed Congress but Were Never Ratified

Congress has sent 33 amendments to the states. Twenty-seven became part of the Constitution. These are the other six, with their exact wording as printed by the U.S. Government Publishing Office. Some of them are still technically pending, because Congress never gave them a deadline.

Congressional Apportionment Amendment (1789)

> After the first enumeration required by the first article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred; after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor more than one Representative for every fifty thousand persons.

This was first on the list of twelve amendments Congress sent out in 1789. It set rules for how many people each member of the House would represent as the country grew. It never got enough states, and action on it stopped in the 1790s. Only 11 states have ever ratified it. It has no deadline, so in theory it is still pending.

Its last clause says there must be at least 200 Representatives, but no more than one for every 50,000 people. Today's House has 435 members, a number Congress set by law in 1929.

Titles of Nobility Amendment (1810)

> If any citizen of the United States shall accept, claim, receive or retain any title of nobility or honour, or shall, without the consent of Congress, accept and retain any present, pension, office or emolument of any kind whatever, from any emperor, king, prince or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them.

Congress passed this in 1810. It would have taken away the citizenship of any American who accepted a title of nobility, like "duke" or "lord," or a gift or office from a foreign ruler without Congress's consent. The original Constitution already barred federal officials from doing this, but not private citizens. It fell one state short and is still technically pending.

For more than 30 years in the 1800s, some printed copies of the Constitution, including the official 1815 printing of the federal laws, mistakenly included it as the 13th Amendment, and a few people still claim it was ratified. It wasn't.

Corwin Amendment (1861)

> No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere, within any State, with the domestic institutions thereof, including that of persons held to labor or service by the laws of said State.

Congress passed this on March 2, 1861, two days before Abraham Lincoln took office, in a last effort to keep the Southern states from leaving the Union. It would have barred any future amendment that let Congress abolish or interfere with slavery in the states where it existed. Notice it never uses the word "slavery." The phrase "persons held to labor or service" means enslaved people.

Outgoing President James Buchanan signed it, though a President's signature has no role in the amendment process. Lincoln mentioned it in his first inaugural address and said he had no objection to it. Only a few states ratified it, among them Ohio and Maryland, which later took their approval back. Illinois approved it through a special convention that was not considered legal. Then the Civil War began and events overtook it. Four years later, the country adopted the opposite: the 13th Amendment.

Child Labor Amendment (1924)

> Section 1. The Congress shall have power to limit, regulate, and prohibit the labor of persons under eighteen years of age.
>
> Section 2. The power of the several States is unimpaired by this article except that the operation of State laws shall be suspended to the extent necessary to give effect to legislation enacted by the Congress.

In the early 1900s, millions of children worked long hours in mines, mills, and factories. Congress passed laws to limit child labor, but the Supreme Court struck them down, in Hammer v. Dagenhart, 247 U.S. 251 (1918), and Bailey v. Drexel Furniture Co., 259 U.S. 20 (1922). So Congress proposed this amendment in 1924. By 1937, 28 states had ratified it, ten short of what is needed today. It has no deadline.

It no longer matters much. In 1938, Congress passed the Fair Labor Standards Act, which limits child labor, and in United States v. Darby (1941), covered in the Tenth Amendment chapter of the first book, the Court upheld it.

Equal Rights Amendment (1972)

> Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.
>
> Section 2. The Congress shall have the power to enforce, by appropriate legislation,

> the provisions of this article.
> Section 3. This amendment shall take effect two years after the date of ratification.

The Equal Rights Amendment, often called the ERA, was first written by suffragist Alice Paul and introduced in Congress in 1923. It finally passed both houses in March 1972, with a seven-year deadline for the states. Many states ratified it quickly. Then opposition grew, led by activists like Phyllis Schlafly. Opponents warned it could lead to drafting women into combat, end legal protections some women relied on, and hand big decisions to federal judges. Supporters said it would write equality of the sexes clearly into the Constitution, which the 14th Amendment doesn't do in so many words.

By 1977, 35 states had ratified, three short. Congress extended the original 1979 deadline to June 30, 1982, but no more states ratified. Meanwhile, between 1973 and 1978, five states, Idaho, Kentucky, Nebraska, South Dakota, and Tennessee, voted to take back, or rescind, their earlier approval.

Years after the deadline passed, Nevada ratified in 2017, Illinois in 2018, and Virginia in 2020, bringing the count to 38 if you accept the late ratifications and ignore the rescissions. That raised a hard question. Supporters argue that Congress's deadline was not part of the amendment's text and can be waived, that states cannot rescind a ratification, and that the ERA is now part of the Constitution. Opponents argue that the deadline was valid and expired decades ago, that the five rescissions count, and that the ERA would have to be proposed and ratified all over again.

In 2020, the Justice Department's Office of Legal Counsel concluded that the deadline had expired, and the Archivist of the United States relied on that opinion in declining to certify the ERA. In 2021, a federal judge dismissed a lawsuit by Virginia, Illinois, and Nevada asking the courts to order the ERA added. In December 2024, the National Archives said again that the ERA cannot be certified, and in January 2025, President Joe Biden said he considered it the 28th Amendment. A President has no formal role in the amendment process.

As of this writing, the ERA has not been published as part of the Constitution. The National Archives, which publishes new amendments, still lists 27. Whether it can ever take effect without being passed and ratified again is still in dispute.

District of Columbia Voting Rights Amendment (1978)

> Section 1. For purposes of representation in the Congress, election of the President and Vice President, and article V of this Constitution, the District constituting the seat of government of the United States shall be treated as though it were a State.
> Section 2. The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress.
> Section 3. The twenty-third article of amendment to the Constitution of the United States is hereby repealed.
> Section 4. This article shall be inoperative, unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

This would have treated Washington, D.C., as if it were a state for representation in Congress, for presidential elections, and for ratifying amendments. That would have meant two senators and at least one voting House member for D.C. It would also have repealed the 23rd Amendment, since it would no longer be needed. Congress gave it seven years, and only 16 states ratified it before it expired in 1985.

Glossary

Abridge. To cut short or reduce.

Amendment. A change or addition to the Constitution.

Apportion. To divide up by population, as with seats in the House or, under the original Constitution, direct taxes.

Article V. The part of the Constitution that sets out how it can be amended.

Ballot. A written or recorded vote.

Certify. To formally confirm. The Archivist of the United States certifies new amendments.

Citizen. A member of the nation with full legal rights, by birth or naturalization.

Concurrent power. A power shared by the national government and the states.

Contingent election. When the House chooses the President, or the Senate chooses the Vice President, because no one won a majority of electoral votes.

Due process. Fair legal procedures the government must follow before taking a person's life, liberty, or property.

Electoral College. The group of electors chosen in each state and D.C. who cast the votes that elect the President and Vice President.

Elector. A person chosen to cast one of a state's votes for President and Vice President.

Enforcement clause. A section giving Congress the power to pass laws carrying out an amendment.

Equal protection. The rule that the government must treat people in the same situation the same way.

Incorporation. The process by which the Supreme Court applied most of the Bill of Rights to the states through the 14th Amendment.

Lame duck. An official still in office after someone else has been elected to replace them.

Naturalization. The legal process by which an immigrant becomes a citizen.

Poll tax. A fee charged as a condition of voting.

Preclearance. Under the Voting Rights Act, a requirement that certain places get federal approval before changing voting rules.

Ratify. To formally approve. Three-fourths of the states must ratify an amendment.

Repeal. To cancel a law or an amendment.

Rescind. To take back an earlier approval.

Sovereign immunity. The rule that a government can't be sued without its consent.

Strict scrutiny. The toughest test courts use, requiring the government to show a law is necessary to serve a very important goal.

Suffrage. The right to vote.

Sources and Further Reading

These are the main sources I used and checked while writing this book, in October 2026. Every fact, date and case citation was checked against one of them or another named public source. Web addresses change, so if one stops working, search the site for the title.

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