

THE CONSTITUTION OF THE UNITED STATES

ANNOTATED

The following text of the United States Constitution, reflecting the original spelling and usage, is printed in **large type**. Brackets [] indicate parts that have been changed or set aside by amendments. Additional paragraphs, headed "Commentary," are printed in smaller type, as shown here, and are not part of the Constitution. They explain the meaning of certain passages, or they describe how certain passages have worked in practice.

Preamble

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

Article I

Section 1

THE LEGISLATIVE BRANCH

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

COMMENTARY:

The first three articles of the Constitution divide the powers of the United States government among three separate branches: (1) the legislative branch, represented by Congress; (2) the executive branch, represented by the President; and (3) the judicial branch, represented by the Supreme Court. This constitutional division, called the *separation* of powers, is designed to prevent any branch of the government from becoming too powerful. In addition, the Constitution creates checks and balances by providing the means by which each branch is required to work with the other branches in order to carry out its functions. For example, the President nominates federal judges but the Senate must confirm them.

The two-house — bicameral — Congress was one of the most important compromises of the Constitutional Convention. The small states at the Convention supported the *New Jersey Plan*, under which each state would have had the same number of Representatives. The large states wanted the *Virginia Plan*, which provided representation based on population. As a compromise, one house was chosen according to each plan.

Article I

Section 2

THE HOUSE OF REPRESENTATIVES

(1) The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

COMMENTARY:

Members of the House of Representatives are elected to two-year terms. If a person is eligible to vote for the “most numerous branch” of his or her state legislature, he or she also is eligible to vote for members of Congress. (All states except Nebraska have a two-house state legislature.) The question of who can vote for state legislators is up to the state, subject to the restrictions of the Constitution and federal law, such as the Voting Rights Act of 1965. The 15th, 19th, 24th, and 26th Amendments forbid the states to deny or restrict a citizen’s right to vote because of race, sex, or failure to pay a tax; or age if the person is at least 18 years old.

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

COMMENTARY:

Each state decides for itself the requirements for legal residence, subject to Constitutional limits. Most Representatives live not only in the state but also in the district from which they are chosen.

(3) Representatives and direct Taxes shall be apportioned among the several States (which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.) The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three,

Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

COMMENTARY:

The effect of this paragraph has been greatly altered both by amendments and by new conditions. It now provides only three things: (1) the number of Representatives given each state shall be based on its population; (2) Congress must see that the people of the United States are counted every 10 years; and (3) each state gets at least one Representative.

The words "and direct taxes" mean poll taxes. The 16th Amendment gives Congress the right to tax persons according to the size of their own income, rather than according to the population of the state in which they happen to live.

In the reference to "three-fifths of all others persons," the "other persons" meant slaves. Since there are no longer any slaves, this part of the paragraph no longer has any meaning.

The requirement that there shall be no more than one Representative for every 30,000 persons no longer has any practical force. In 1929, Congress fixed the total number of Representatives at 435 and it has remained there ever since.

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

COMMENTARY:

If a vacancy occurs in a House seat, the state governor must call a special election to fill it. However, if the next regularly scheduled election is to be held soon, the governor may allow the seat to remain empty rather than call a special election.

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

COMMENTARY:

The House chooses an officer called the *Speaker* to lead meetings. The House alone has the power to bring impeachment charges against a federal official. It has impeached 16 federal officers, including two presidents, Andrew Johnson in 1868 and William Jefferson Clinton in 1998. The Senate tries impeachment cases.

Article 1

Section 3

THE SENATE

(1) The Senate of the United States shall be composed of two Senators from each State, (chosen by the Legislature thereof,) for six Years; and each Senator shall have one Vote.

COMMENTARY:

The Constitution at first provided that each state legislature should pick the state's two Senators. The 17th Amendment changes this by providing for the voters of each state to choose their own Senators.

(2) Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year; so that one third may be chosen every second Year; (and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.)

COMMENTARY:

Senators are elected to six-year terms. Every two years, one-third of the Senators are elected and two-thirds are holdovers. This arrangement makes the Senate a continuing body, unlike the other House, whose entire membership is elected every two years. The 17th Amendment changed the method of filling vacancies. The governor chooses a Senator until the people elect one.

(3) No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

COMMENTARY:

In 1806, Henry Clay of Kentucky was appointed to fill an unexpired term in the Senate. He was only 29, a few months younger than the minimum age, but no one challenged the appointment. In 1793, Albert Gallatin was elected to the Senate from Pennsylvania. He was barred from taking office because he had not been a citizen for nine years.

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

COMMENTARY:

The Vice President serves as president of the Senate. He votes only when a tie vote occurs. The Vice President's power to break ties can be important. In 1789, for example, Vice President John Adams cast the vote that decided the President could remove Cabinet members without Senate approval.

(5) The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

COMMENTARY:

The Senate elects an officer called the *president pro tempore* to lead meetings when the Vice President is absent.

(6) The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

COMMENTARY:

The provision that the Chief Justice, rather than the Vice President, shall preside over the Senate when a President is on trial probably grows out of the fact that a Senate conviction of a President would make the Vice President the President. The phrase “on oath or affirmation” means that Senators are placed under oath when trying impeachment cases, just as jurors are in a regular court trial.

(7) Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

COMMENTARY:

If an impeached person is found guilty, she or he can be removed from office and forbidden to hold federal office again. The Senate cannot impose any other punishment, but the person may also be tried in regular courts. The Senate has convicted seven persons, all of them judges. All these men were removed from office, but only two of them were disqualified from holding any federal office.

Article 1

Section 4

ORGANIZATION OF CONGRESS

(1) The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, (except as to the Places of choosing Senators.)

COMMENTARY:

As long as state legislatures chose the Senators, it would not do to let Congress fix the place of choosing. This would have amounted to giving Congress the power to tell each state where to locate its capital. The words “except as to the places of choosing Senators” were set aside by the 17th Amendment.

(2) The Congress shall assemble at least once in every Year, (and such Meeting shall be on the first Monday in December,) unless they shall by Law appoint a different Day.

COMMENTARY:

In Europe, monarchs could keep parliaments from meeting, sometimes for many years, simply by not calling them together. This is the reason for the requirement that the Congress of the United States must meet at least once a year. The 20th Amendment changed the date of the opening day of the session to January 3, unless Congress sets another date by law.

Article 1

Section 5

(1) Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

COMMENTARY:

Each house determines if its members are constitutionally qualified and have been properly elected. In judging the qualifications of its members, each house may consider only the age, citizenship, and residence requirements set forth in the Constitution. In acting on motions to expel a member, however, either house of Congress may consider other matters bearing on that member's fitness for office. Discussion and debate can go on whether a quorum is present or not, as long as a quorum is present for the final vote.

(2) Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour; and, with the Concurrence of two thirds, expel a Member.

COMMENTARY:

Each house makes its own rules. For example, the House of Representatives puts strict time limits on debate to speed up business. It is much more difficult to end debate in the Senate. By Senate rules, a Senator may speak as long as he or she wishes unless the Senate votes for *cloture*, a motion to end debate. On most matters, cloture requires a vote of 60 Senators, or three-fifths of the total Senate membership. Either house can expel one of its members by a two-thirds vote.

(3) Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

COMMENTARY:

The House *Journal* and the Senate *Journal* are published at the end of each session of Congress. They list all the bills and resolutions considered during the session, as well as every vote. All messages from the President to Congress also are included.

Of more importance, the *Congressional Record* is published daily and includes verbatim transcripts of the debates.

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

Article 1

Section 6

(1) The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

COMMENTARY:

The privilege of *immunity* (freedom from arrest) while going to and from congressional business has little importance today. Members of Congress, like anyone else, may be arrested for breaking the law. They may be tried, convicted, and sent to prison.

Congressional immunity from charges of *libel* and *slander* remains important. Libel is an untrue written statement that damages a person's reputation. Slander is a spoken statement that does so. Immunity under the speech and debate clause means that members of Congress may say whatever they wish in connection with congressional business without fear of being sued. This immunity extends to anything said by members during debate, in an official report, or while voting.

(2) No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

COMMENTARY:

These provisions keep members of Congress from creating jobs to which they can later be appointed, or while serving in Congress from raising salaries of jobs they hope to hold in the future, and from holding office in the other branches of the government.

In 1909, Senator Philander C. Knox resigned from the Senate to become Secretary of State. But the salary of the Secretary of State had been increased during Knox's term as Senator. In order that Knox might accept the post, Congress withdrew the salary increase for the period of Knox's unfinished term.

Article 1

Section 7

(1) All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

COMMENTARY:

Tax bills must originate in the House. The tradition that tax laws should originate in the lower house of the legislature comes from England. There, the lower house — the House of Commons — is more likely to reflect the people's wishes because the people elect its members. They do not elect the upper house, the House of Lords. In the United States, since the adoption of the 17th Amendment, this rule has little importance because the people elect both the Senate and the House. In addition, the Senate can amend a tax bill to such an extent that, in effect, it rewrites the whole measure.

(2) Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

COMMENTARY:

A bill passed by Congress goes to the President for the President's signature. If the President disapproves the bill, he has 10 days not counting Sundays to return it to the chamber which originated it with a statement of the objections. This action is called a *veto*. Congress can pass a law over the President's veto by a two-thirds vote of each house of those members present. The President can also let a bill become a law without signing it merely by letting 10 days pass. But a bill sent to the President during the last 10 days of a session of Congress cannot become a law unless it is signed. If a bill the President dislikes reaches the President near the end of the session, the bill may simply be held unsigned. When Congress adjourns, the bill is killed. This practice is known as a *pocket veto*.

(3) Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be

approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Article 1

Section 8

POWERS GRANTED TO CONGRESS

The Congress shall have Power

(1) To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

COMMENTARY:

Duties are taxes on goods coming into the United States. *Excises* are taxes on sales, use, or production, and sometimes on business procedures or privileges. For example, corporation taxes, cigarette taxes, and amusement taxes are excises. *Imposts* is a general tax term that includes both duties and excises.

(2) To borrow Money on the credit of the United States;

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

COMMENTARY:

This section, called the *commerce clause*, gives Congress some of its most important powers. The Supreme Court has interpreted *commerce* to mean not only trade but also all kinds of commercial activity. The Supreme Court has ruled that “commerce among the several states” — interstate commerce — includes not only transactions across state boundaries but also any activity that affects commerce in more than one state. The power to regulate this commerce is the power to *encourage, promote, protect, prohibit, or restrain* it. As a result, Congress can pass laws and provide funds to improve waterways, to enforce air safety measures, and to forbid interstate shipment of certain goods. It can regulate the movement of people, of trains, of stocks and bonds, and television signals, as well as the Internet. Congress has made it a federal crime to flee across state lines from state or local police to use interstate commerce for a wide variety of crimes. It also has forbidden people who operate interstate facilities or who serve interstate passengers to treat customers unfairly because of race, gender, national origins, old age, or physical disability.

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

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

COMMENTARY:

From this section, along with the section that allows the Congress to regulate commerce and to borrow money, Congress gets its right to charter national banks and to establish the Federal Reserve System.

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

COMMENTARY:

Securities are government bonds.

(7) To establish Post Offices and post Roads;

(8) To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

COMMENTARY:

Books, music, photographs, videotape, digital video discs (DVD), and films may be copyrighted under this rule.

(9) To constitute Tribunals inferior to the supreme Court;

COMMENTARY:

Examples of federal courts “inferior to the Supreme Court” include the United States district courts and United States Courts of Appeals.

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

COMMENTARY:

Congress, rather than the states, has jurisdiction over crimes committed at sea.

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

COMMENTARY:

Only Congress can declare war. However, the President, as Commander-in-Chief, has engaged the United States in wars without a formal declaration of war by Congress. Undeclared wars include the Korean War (1950-1953), the Vietnam War (1957-1975), and the Gulf Wars (1991, 2003).

Letters of marque and reprisal are documents that authorize private vessels to attack enemy shipping. They are no longer issued.

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

(13) To provide and maintain a Navy;

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

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

COMMENTARY:

Congress has given the President power to decide when a state of invasion or *insurrection* (uprising) exists. At such times, the President can call out the state militia, now known as the National Guard, as well as the regular armed forces.

(16) To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

COMMENTARY:

The federal government helps the states maintain the militia, also known as the National Guard. Until 1916, the states controlled the militia entirely. That year, the National Defense Act provided for federal funding of the Guard and for drafting the Guard into national service under certain circumstances.

(17) To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; — And

COMMENTARY:

This section makes Congress the legislative body not only for the District of Columbia, but for federal property on which forts, naval bases, arsenals, and other federal works or buildings are located.

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

COMMENTARY:

This section, the famous “necessary and proper” clause, allows Congress to deal with

many matters not specifically mentioned in the Constitution. This flexibility helps explain why the Constitution is one of the oldest written constitutions and why it has needed so few formal amendments.

Article I

Section 9

POWERS FORBIDDEN TO CONGRESS

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

COMMENTARY:

This paragraph refers to the slave trade. Dealers in slaves, as well as some slaveholders, wanted to make sure that Congress could not stop anyone from bringing African slaves into the country before the year 1808. That year, Congress did ban the importation of slaves.

(2) The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

COMMENTARY:

A *writ of habeas corpus* is a court order that commands officials who have a person in custody to bring the person into court. The officials must explain to the judge why the person is being restrained. If their explanation is unsatisfactory, the judge can order the prisoner released.

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

COMMENTARY:

A *bill of attainder* is an act passed by a legislature to punish a person without trial. An *ex post facto law* is one that makes criminal an act that was not illegal when the act was committed. This also includes an act that retroactively increases the punishment for a criminal act.

(4) No Capitation, (or other direct,) Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

COMMENTARY:

A *capitation* is a tax collected equally from everyone. It is also called a *head tax* or *poll tax*. The Supreme Court held that this section prohibits an income tax, but the 16th Amendment set aside the effect of the court's decision.

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

COMMENTARY:

In this sentence, *exported* means sent to other states or to foreign countries. The Southern states feared that the new government would tax their exports and that their economies would suffer as a result. This sentence forbids such a tax. However, Congress can prohibit shipment of certain items, as well as regulate the conditions of their shipment.

(6) No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

COMMENTARY:

Congress cannot make laws concerning trade that favor one state over another. Ships going from one state to another need not pay taxes to do so.

(7) No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

COMMENTARY:

Government money cannot be spent without the consent of Congress. Congress must provide for the issuance of financial statements from time to time.

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

COMMENTARY:

Congress cannot give anyone a title of nobility, such as countess or duke. Federal officials may not accept a gift, office, payment, or title from a foreign country without the consent of Congress.

Article I

Section 10

POWERS FORBIDDEN TO THE STATES

(1) No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

(2) No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

COMMENTARY:

Without the consent of Congress, a state cannot tax goods entering or leaving the state except for small fees to cover the cost of inspection.

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

COMMENTARY:

Only the federal government has the power to make treaties or negotiate with foreign countries.

Article II

Section 1

THE EXECUTIVE BRANCH

he executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

(2) Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

COMMENTARY:

This section establishes the Electoral College, a group of people chosen in each state in a manner that the state legislature decides. All states now provide that the voters choose these electors. These electors in turn elect the President and Vice President.

(3) [The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves.

And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.)

COMMENTARY:

The 12th Amendment changed this procedure for electing the President and Vice President.

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

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

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

COMMENTARY:

On August 9, 1974, President Richard M. Nixon resigned as Chief Executive and was succeeded by Vice President Gerald R. Ford. Until then, only death had ever cut short the term of a President of the United States. The 25th Amendment provides that the Vice President succeeds to the presidency if the President becomes disabled, and specifies the conditions applying to succession.

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

COMMENTARY:

The Constitution made it possible for a poor person to become President by providing a salary for that office. The President's salary cannot be raised or lowered during his or her term of office. The Chief Executive may not receive any other pay from the federal government or the states, but of course is provided with many services.

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

COMMENTARY:

The Constitution does not say who shall administer the oath to the newly elected President. President George Washington was sworn in by Robert R. Livingston, then a state official in New York. After that it became customary for the Chief Justice of the United States to administer the oath. Calvin Coolidge was sworn in by his father, a justice of the peace, at his home in Vermont. Coolidge took the oath again before Justice Adolph A. Hoehling of the Supreme Court of the District of Columbia.

Article II

Section 2

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

COMMENTARY:

The President's powers as Commander-in-Chief are far-reaching. But even in wartime, the President must obey the law of the land.

(2) He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose

Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

COMMENTARY:

The framers of the Constitution intended that in some matters the Senate should serve as an advisory body for the President, somewhat as the House of Lords advised the monarch in Great Britain.

The President can make treaties and appoint various government officials. But two-thirds of the Senators present must approve before a treaty is confirmed. Also, high appointments require approval of more than half the Senators present.

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

COMMENTARY:

When the Senate is not in session, the President can make temporary appointments to offices that require Senate confirmation.

Article II

Section 3

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

COMMENTARY:

The President gives a State of the Union message to Congress each year. Presidents George Washington and John Adams delivered their messages in person. For more than 100 years after that, most Presidents sent a written message, which was read in Congress. President Woodrow Wilson delivered his message in person, as did Franklin D. Roosevelt and all Presidents after Roosevelt. Famous messages to Congress include the Monroe Doctrine and President Wilson's "Fourteen Points."

During the 1800s, Presidents often called Congress into session. Today, Congress is in session most of the time. No President has ever had to adjourn Congress.

The responsibility to "take care that the laws be faithfully executed" puts the President at the head of law enforcement for the national government. Every federal official, civilian or military, gets his or her authority from the President.

Article II

Section 4

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

Article III

Section 1

THE JUDICIAL BRANCH

T

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

COMMENTARY:

The Constitution gives federal courts considerable independence from both the Congress and the President. The guarantee that judges shall hold office during “good behavior” means that, unless they are impeached and convicted, they can hold office for life. This protects judges from any threat of dismissal by the President who appointed them, or by any other President during their lifetime. The rule that a judge’s salary may not be reduced protects the judge against pressure from Congress, which could otherwise threaten to fix the salary so low that the judge could be forced to resign.

Article III

Section 2

(1) The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; — to all Cases affecting Ambassadors, other public Ministers and Consuls; — to all Cases of admiralty and maritime Jurisdiction; — to Controversies to which the United States shall be a Party; — to Controversies between two or more States; — [between a State and Citizens of another State;] — between Citizens of different States,

— between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, (Citizens or Subjects.)

COMMENTARY:

The right of the federal courts to handle “cases arising under this Constitution” is the basis of the Supreme Court’s right to declare laws of Congress unconstitutional. This right of “judicial review” was established by Chief Justice John Marshall’s historic decision in the case of *Marbury v. Madison* in 1803.

The 11th Amendment set aside the phrase “between a state and citizens of another state” and removes from federal courts suits by citizens against a state.

(2) In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

COMMENTARY:

The statement that the Supreme Court has *original jurisdiction* in cases affecting foreign governments and their representatives and in cases to which a state government is one of the parties means that cases of this kind go directly to the Supreme Court. In other cases, the Supreme Court has *appellate jurisdiction*. This means that the cases are tried first in a lower court and may come up to the Supreme Court for review if Congress has authorized an appeal for such kinds of cases. Congress cannot take away or modify the original jurisdiction of the Supreme Court, but it can take away the right to appeal to that Court or fix the conditions one must meet to present an appeal.

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

Article III

Section 3

(1) Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

COMMENTARY:

No person can be convicted of treason against the United States unless he or she confesses in open court, or unless two witnesses testify that he or she has committed a treasonable act. Talking or thinking about committing a treasonable act is not treason.

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

COMMENTARY:

The phrase “no attainder of treason shall work corruption of blood” means that the family of a traitor does not share the guilt. Formerly, an offender’s family could also be punished.

Article IV*

Section 1

RELATION OF THE STATES TO EACH OTHER

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

COMMENTARY:

This section requires the states to honor one another’s laws, records, and court rulings.

Article IV

Section 2

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

COMMENTARY:

This means that citizens traveling from state to state are entitled to all the privileges and immunities that automatically go to citizens of those states. Some privileges, such as the right to vote, do not automatically go with citizenship, but require a period of residence and perhaps other qualifications. The word “citizen” in this provision does not include corporations.

* *Much of this article was taken word for word from the old Articles of Confederation.*

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

COMMENTARY:

If a person commits a crime in one state and flees to another state, the governor of the state in which the crime was committed can demand that the fugitive be handed over. The process of returning an accused person is called *extradition*. In a few cases, a governor has refused to extradite. The governor might do so because the crime was committed many years ago, or because he or she believes the accused would not get a fair trial in the other state.

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

COMMENTARY:

A “person held to service or labor” was a slave or an *indentured servant* (a person bound by contract to serve someone for several years). No one is now bound to servitude in the United States, so this part of the Constitution, being superseded by the 13th Amendment, no longer has any force.

Article IV

Section 3

FEDERAL-STATE RELATIONS

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

COMMENTARY:

New states cannot be formed by dividing or joining existing states without the consent of the state legislatures and Congress. During the Civil War (1861-1865), Virginia fought for the Confederacy, but people in the western part of the state supported the Union. After West Virginia split from Virginia, Congress accepted the new state on the ground that Virginia had rebelled.

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

Article IV

Section 4

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

COMMENTARY:

This section requires the federal government to make sure that every state has a “republican form of government.” A republican government is one in which the people elect representatives to govern. The Supreme Court ruled that Congress, not the courts, must decide whether a state government is republican. If Congress admits a state’s Senators and Representatives, that action indicates that Congress considers the state’s government republican.

The legislature or governor of a state can request federal aid in dealing with riots or other internal violence. But the President does not need a state’s consent to send federal forces, including military ones, to enforce federal laws. During the Pullman strike of 1894, the federal government sent troops to Illinois even though the state governor did not want them. In 1957 President Eisenhower nationalized the Arkansas National Guard in order to remove it from the command of Arkansas Governor Orval Faubus and sent in the United States Army to help implement the orders of a federal district judge that the Little Rock schools be racially desegregated.

Article V

AMENDING THE CONSTITUTION



The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the

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

COMMENTARY:

Amendments may be proposed by a two-thirds vote of each house of Congress or by a national convention called by Congress at the request of two-thirds of the states. To become part of the Constitution, amendments must be *ratified* (approved) by the legislatures of three-fourths of the states or by conventions in three-fourths of the states.

The framers of the Constitution purposely made it hard to put through an amendment. Congress has considered more than 9,000 amendments, but it has proposed only 33 and submitted them to the states. Of these, only 27 have been ratified. Only one amendment, the 21st, was ratified by state conventions. All the others were ratified by state legislatures.

The Constitution sets no time limit during which the states must ratify a proposed amendment. But the courts have held that amendments must be ratified within a "reasonable time" and that Congress decides what is reasonable, as it did when it allowed the promulgation of the 27th Amendment on May 7, 1992 — more than 202 years after it was proposed. Since the early 1900s, most proposed amendments have included a requirement that the necessary ratification be obtained within seven years.

Article VI

NATIONAL DEBTS

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

COMMENTARY:

This section promises that all debts and obligations made by the United States before the adoption of the Constitution would be honored.

SUPREMACY OF THE NATIONAL GOVERNMENT

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

COMMENTARY:

This section, known as the *supremacy clause*, has been called *the linchpin of the Constitution* — that is, the part that keeps the entire structure from falling apart. It means simply that when state laws conflict with national laws, the national laws are superior. It also means that, to be valid, a national law must be in conformity with the Constitution.

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

COMMENTARY:

This section requires that both federal and state officials give supreme allegiance to the Constitution of the United States rather than to the constitution of any state. This section also forbids any kind of religious test for holding federal office. This provision applies only to the national government, but the 14th Amendment applies the same rule to state and local governments.

Article VII

RATIFYING THE CONSTITUTION



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

(The following statement reflects copyist's corrections to the original document.)

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

Attest William Jackson Secretary

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth

In Witness whereof We have hereunto subscribed our Names,

Go. Washington - Presid.t and deputy from Virginia

Delaware

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

Maryland

James McHenry
Dan of St Thos. Jenifer
Danl Carroll

Virginia

John Blair—
James Madison Jr.

North Carolina

Wm. Blount
Richd. Dobbs Spaight
Hu Williamson

South Carolina

J. Rutledge
Charles Cotesworth Pinckney
Charles Pinckney
Pierce Butler

Georgia

William Few
Abr Baldwin

New Hampshire

John Langdon
Nicholas Gilman

Massachusetts

Nathaniel Gorham
Rufus King

Connecticut

Wm. Saml. Johnson
Roger Sherman

New York

Alexander Hamilton

New Jersey

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

Pennsylvania

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

AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES

ANNOTATED

ARTICLES in addition to, and amendment of, the Constitution of the United States of America, proposed by Congress, and ratified by the several states, pursuant to the fifth article of the original Constitution.

The Bill of Rights

Amendment 1

FREEDOM OF RELIGION, SPEECH, AND THE PRESS; RIGHTS OF ASSEMBLY AND PETITION

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

COMMENTARY:

Many countries have made one religion the *established* (official) church and support it with government funds. This amendment forbids Congress to set up or in any way provide for an established church. It has been interpreted to forbid government endorsement of or aid to religious doctrines. In addition, Congress may not pass laws limiting worship, speech, or the press, or preventing people from meeting peacefully. Congress also may not keep people from asking the government for relief from unfair treatment. The Supreme Court has interpreted the 14th Amendment as applying the First Amendment to the states as well as to the federal government.

The Bill of Rights

Amendment 2

RIGHT TO BEAR ARMS

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

COMMENTARY:

This amendment has been interpreted in two ways. Some people believe it gives ordinary citizens the right to possess firearms. Others believe it only gives each state the right to maintain its own militia.

The Bill of Rights

Amendment 3

HOUSING OF SOLDIERS

*N*o Soldier shall, in time of peace be quartered in any house, without the consent of the Owner; nor in time of war, but in a manner to be prescribed by law.

COMMENTARY:

This amendment grew directly out of an old complaint against the British, who had forced people to take soldiers into their homes.

The Bill of Rights

Amendment 4

SEARCH AND ARREST WARRANTS

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

COMMENTARY:

This measure does not forbid legal authorities to search, to seize goods, or to arrest people. It simply requires that in most circumstances the authorities obtain a search warrant from a judge by showing the need for it. The Supreme Court has held that evidence obtained in violation of the Fourth Amendment may not be admitted in evidence in a criminal trial.

The Bill of Rights

Amendment 5

RIGHTS IN CRIMINAL CASES

*N*o person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in

jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

COMMENTARY:

A *capital crime* is one punishable by death. An *infamous crime* is one punishable by death or imprisonment. This amendment guarantees that no one has to stand trial for such a federal crime unless a *grand jury* has *indicted* (accused) him or her. A grand jury is a special group of people selected to decide whether there is enough evidence against a person to hold a trial. Persons cannot be *put in double jeopardy* (tried twice) for the same offense by the same government. But they may be tried a second time if a jury cannot agree on a verdict, if a mistrial is declared for some reason, or if they request a new trial. The amendment also guarantees that persons cannot be forced to testify against themselves.

The due process clause, the statement that no person shall be deprived of life, liberty, or property “without due process of law” is one of the most important provisions of the Constitution. The same words are in the 14th Amendment as restrictions on the power of the states. The phrase reflects the idea that a person’s life, liberty, and property are not subject to the complete discretion of government officials. This idea can be traced back to the Magna Carta, which provided that the English king could not imprison or harm a person “except by the lawful judgment of his peers or by the law of the land.”

The Supreme Court has applied the due process clauses — there is one in the 14th Amendment that limits the states — to widely different situations. Until the mid-1900s, the court used the due process clauses to strike down laws that prevented people from using their property as they wished. Today, the courts use the due process rule to strike down laws that interfere with personal liberty.

The amendment also forbids the government to take a person’s property even for public use without fair payment. The government’s right to take property for public use is called *eminent domain*. Governments use it to acquire land for highways, schools, and other public facilities, but they must pay the owners just compensation.

The Bill of Rights

Amendment 6

RIGHTS TO A FAIR TRIAL

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

COMMENTARY:

A person accused of crime must have a prompt, public trial by an open-minded jury. The requirement for a speedy and public trial grew out of the fact that some political trials

in England had been delayed for years and then were held in secret. Accused individuals must be informed of the charges against them and must be allowed to meet the witnesses against them face to face. Otherwise, innocent persons may be punished if a court allows the testimony of unknown witnesses to be used as evidence. This amendment guarantees that individuals on trial can face and cross-examine those who have accused them. Finally, accused persons must have a lawyer to defend them if they want one. If a criminal defendant is unable to afford a lawyer, the Supreme Court has held that one must be appointed to represent the accused individual.

The Bill of Rights

Amendment 7

RIGHTS IN CIVIL CASES

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

COMMENTARY:

The Sixth Amendment provides for jury trials in criminal cases. The Seventh Amendment provides for such trials in civil suits where the amount contested exceeds \$20. The amendment applies only to federal courts. But most state constitutions also call for jury trials in civil as well as criminal cases.

The Bill of Rights

Amendment 8

BAILS, FINES, AND PUNISHMENTS

*E*xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

COMMENTARY:

Bails, fines, and punishment must be fair and humane. In the case of *Furman v. Georgia*, the Supreme Court ruled in 1972 that capital punishment, as it was then imposed, violated this amendment. The court held that the death penalty was cruel and unusual punishment because it was not applied fairly and uniformly. After that decision, many states adopted new capital punishment laws designed to meet the Supreme Court's objections. The court has ruled that the death penalty may be imposed in capital cases if certain standards are applied to guard against arbitrary and capricious application of the penalty.

The Bill of Rights

Amendment 9

RIGHTS RETAINED BY THE PEOPLE

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

COMMENTARY:

Some people feared that the listing of some rights in the Bill of Rights would be interpreted to mean that other rights not listed were not protected. This amendment was adopted to prevent such a misinterpretation.

The Bill of Rights

Amendment 10

POWERS RETAINED BY THE STATES AND THE PEOPLE

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

COMMENTARY:

This amendment was adopted to reassure people that the national government would not swallow up the states. It confirms that the states or the people retain all powers not given to the national government. For example, the states have the authority over such matters as marriage and divorce.

Amendment 11

LAWSUITS AGAINST STATES

This amendment was proposed on March 4, 1794, and ratified on February 7, 1795.

*T*he 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.

COMMENTARY:

This amendment makes it impossible for a citizen of one state to sue another state in federal court. The amendment resulted from the 1793 case of *Chisholm v. Georgia*, in which a man from South Carolina sued the state of Georgia over an inheritance. Georgia argued that it could not be sued in federal court, but the Supreme Court ruled that the state could be. Georgia then led a movement to add this amendment to the Constitution. However, individuals can still bring actions against state authorities in federal court to prevent these authorities from depriving them of their Constitutional rights.

Amendment 12

ELECTION OF THE PRESIDENT AND VICE PRESIDENT

This amendment was proposed on December 9, 1803, and ratified on July 27, 1804.

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.

COMMENTARY:

This amendment provides that members of the Electoral College, called *electors*, vote for one person as President and for another as Vice President. The amendment resulted from the election of 1800. At that time, each elector voted for two men, not saying which he wanted for President. The man who received the most votes was to become President, and the runner-up Vice President. Thomas Jefferson, the presidential candidate of what was to become the Democratic Party, and Aaron Burr, the vice presidential candidate of the same party, received the same number of electoral votes. The tie threw the election into the House of Representatives, controlled by the opposition party, the Federalist. The House finally chose Jefferson but took so long that people feared it would fail to choose a President before Inauguration Day. The House has chosen one other President — John Quincy Adams in 1825.

Amendment 13

ABOLITION OF SLAVERY

This amendment was proposed on January 31, 1865, and ratified on December 6, 1865.

SECTION 1

*N*either 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.

COMMENTARY:

President Abraham Lincoln's Emancipation Proclamation of 1863 had freed the slaves in the Confederate States still in rebellion. This amendment completed the abolition of slavery in the United States.

SECTION 2

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

Amendment 14

CIVIL RIGHTS

This amendment was proposed on June 13, 1866, and ratified on July 9, 1868.

SECTION 1

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

COMMENTARY:

The principal purpose of this amendment was to make former slaves citizens of both the United States and the state in which they lived and to protect them from state-imposed discrimination. The terms of the amendment clarify how citizenship is acquired. State citizenship is a by-product of national citizenship. By living in a state, every U.S. citizen automatically becomes a citizen of that state as well. All persons *naturalized* (granted citizenship) according to law are U.S. citizens. Anyone born in the United States is also a citizen regardless of the nationality of his parents, unless they are diplomatic representatives of another country or enemies during a wartime occupation. Such cases are exceptions because the parents are not “subject to the jurisdiction” of the United States. The amendment does not grant citizenship to Native Americans living on reservations, but Congress has passed a law that did so.

The phrase “due process of law” has been construed to forbid the states to violate most of the rights the Bill of Rights protects from abridgment by the national government. It has also been interpreted as protecting other rights by its own force. The statement that a state cannot deny anyone “equal protection of the laws” has provided the basis for many Supreme Court rulings on civil rights. For example, the court in 1954 (*Brown v. Board of Education*) declared public school racial segregation to be a denial of equal protection under the laws. Since then the Supreme Court has held that any form of government-sanctioned racial segregation is unconstitutional.

SECTION 2

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, (excluding Indians not taxed.) But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the

United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

COMMENTARY:

This section proposes a penalty for states that refused to give the vote in federal elections to all adult male citizens. States that restricted voting could have had their representation in the House of Representatives reduced. This penalty was never imposed. The section has been set aside by the 19th and 26th amendments.

SECTION 3

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

COMMENTARY:

This section is of historical interest only. Its purpose was to keep federal officers who joined the Confederacy from becoming federal officers again.

SECTION 4

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

COMMENTARY:

This section ensured that the Union's Civil War debt would be paid, but voided all debts run up by the Confederacy. The section also said that former slave owners would not be paid for slaves who were freed.

SECTION 5

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

Amendment 15

AFRICAN AMERICAN SUFFRAGE

This amendment was proposed on February 26, 1869, and ratified on February 3, 1870.

SECTION 1

*T*he 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.

COMMENTARY:

African Americans who had been slaves became citizens under the terms of the 14th Amendment. The 15th Amendment prohibits states from denying citizens the right to vote because of race. Some southern states were able to deny African Americans the right to vote despite this Amendment until the 1960s, when Congress passed laws to enforce the Amendment and the Supreme Court declared unconstitutional practices and legal procedures whose effect had been to circumvent it.

SECTION 2

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

Amendment 16

INCOME TAXES

This amendment was proposed on July 12, 1909, and ratified on February 3, 1913.

*T*he 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.

COMMENTARY:

In 1894, Congress passed an income tax law, but the Supreme Court declared it to be a direct tax that had to be apportioned among the states and thus made it impossible to levy. This amendment authorized Congress to levy such a tax without apportionment.

Amendment 17

DIRECT ELECTION OF SENATORS

This amendment was proposed on May 13, 1912, and ratified on April 8, 1913.

- (1) *T*he 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.
- (2) 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.
- (3) 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.

COMMENTARY:

This amendment took the power of electing Senators from the state legislature and places it in the hands of the voters of the state.

Amendment 18

PROHIBITION OF LIQUOR

This amendment was proposed on December 18, 1917, and ratified on January 16, 1919.

SECTION 1

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

SECTION 2

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

SECTION 3

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

COMMENTARY:

This is the prohibition amendment, which forbade people to make, sell, or transport liquor. It was repealed by the 21st Amendment in 1933.

Amendment 19

WOMEN'S SUFFRAGE

This amendment was proposed on June 4, 1919, and ratified on August 18, 1920.

*T*he 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.

COMMENTARY:

Amendments that would have given women the right to vote were introduced in Congress one after another for more than 40 years before this one was finally passed.

Amendment 20

TERMS OF THE PRESIDENT AND CONGRESS

This amendment was proposed on March 2, 1932, and ratified on January 23, 1933.

SECTION 1

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

SECTION 2

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

SECTION 3

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

SECTION 4

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

SECTION 5

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

SECTION 6

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

COMMENTARY:

This amendment, called the *lame duck amendment*, moves the date that the newly elected Presidents and members of Congress take office closer to election time. A *lame duck* is an

official who continues to serve though not re-elected. Before the amendment came into force, Congressmen and presidents defeated in the November elections continued to hold office until the following March.

Amendment 21

REPEAL OF PROHIBITION

This amendment was proposed on February 20, 1933, and ratified on December 5, 1933.

SECTION 1

*T*he eighteenth article of amendment to the Constitution of the United States is hereby repealed.

SECTION 2

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

SECTION 3

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

COMMENTARY:

This amendment simply repeals the 18th Amendment.

Amendment 22

LIMITATION OF PRESIDENTS TO TWO TERMS

This amendment was proposed on March 24, 1947, and ratified on February 27, 1951.

SECTION 1

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

SECTION 2

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

COMMENTARY:

This amendment provides that no person can be elected to President more than twice. No one who has served as President for more than two years of someone else's term can be elected more than once. One President can hold office for no more than 10 years. The amendment was supported by people who thought President Franklin D. Roosevelt should not have served four terms. No other President had run for election to more than two consecutive terms.

Amendment 23

SUFFRAGE IN THE DISTRICT OF COLUMBIA

This amendment was proposed on June 16, 1960, and ratified on March 29, 1961.

SECTION 1

*T*he 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.

SECTION 2

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

COMMENTARY:

This amendment allows citizens of the District of Columbia to vote in presidential elections. However, they have no members of Congress to vote for.

Amendment 24

POLL TAXES

This amendment was proposed on August 27, 1962, and ratified on January 23, 1964.

SECTION 1

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

SECTION 2

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

COMMENTARY:

This amendment forbids a state from making voters pay a *poll* or *head tax* before they can vote in a national election. The Supreme Court has interpreted the 14th Amendment equal protection clauses as forbidding the imposition of a poll tax in state elections. The term *poll tax* does not mean a tax on voting. It comes from the old English word *poll*, meaning *head*. Some states once used such taxes to keep poor people and African Americans from voting.

Amendment 25

PRESIDENTIAL DISABILITY AND SUCCESSION

This amendment was proposed on July 6, 1965, and ratified on February 10, 1967.

SECTION 1

*I*n case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

SECTION 2

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

COMMENTARY:

This section provides for filling a vacancy in the vice presidency. In 1973, Gerald R. Ford became the first person ever chosen Vice President under the terms of the amendment. He was nominated by President Richard M. Nixon after Vice President Spiro T. Agnew resigned. In 1974, Nixon resigned and Ford became President. Nelson A. Rockefeller then became Vice President under the new procedure. For the first time, the United States had both a President and Vice President who had not been elected to their office. Before this amendment came into force, vacancies in the vice presidency remained unfilled until the next presidential election.

SECTION 3

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

COMMENTARY:

This section provides that the Vice President succeeds to the presidency if the President becomes disabled. Vice President George H. W. Bush became the first acting President. He officially held the position eight hours on July 13, 1985, when President Ronald Reagan had cancer surgery.

SECTION 4

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

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

Amendment 26

SUFFRAGE FOR 18-YEAR-OLDS

This amendment was proposed on March 23, 1971, and ratified on July 1, 1971.

SECTION 1

*T*he 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 any State on account of age.

SECTION 2

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

COMMENTARY:

This amendment forbids states from denying the vote to citizens because of their age if they are 18 years of age or older.

Amendment 27

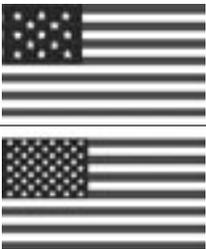
CONGRESSIONAL SALARIES

This amendment was proposed on September 25, 1789, and ratified on May 7, 1992.

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

COMMENTARY:

This amendment, originally proposed by James Madison, was approved by Congress in 1789 and submitted to the states for ratification, but after 200 years had not been ratified by the requisite 38 states. Public criticism of congressional pay raises led the state of Michigan to ratify this amendment on May 7, 1992, providing the 38th ratification. This amendment ensures that if Senators or members of the House of Representatives vote to raise their own pay, only members of the subsequent Congresses (which may include incumbents as well as newly elected congressmen) will benefit from the raise. ■



At the time the Constitution was written, the nation consisted of 13 states, symbolized by the 13 stars in the nation's first flag (top). During subsequent decades, a new star was added to the flag for each new state admitted to the Union, so that today the flag contains 50 stars for the 48 contiguous states plus Alaska and Hawaii. The 13 alternating red and white stripes, symbolizing the original states, have remained unchanged.

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