

# The United States Constitution for Kids

## Introduction

Following the War of Independence with Great Britain, the former colonies began to consider the best way to govern their newly created and unified nation. Their initial experiment with self-government, the [Articles of Confederation](#), created a governmental system in which power was distributed amongst the States, leaving the central government with limited powers to solve problems when they occurred between the States. As a result, from 1783-1789, America faced what is now known as the “Critical Period.”

Without a strong government, America experienced many difficulties. The Articles government owed a lot of money from fighting the war with Great Britain but could not pay because it had no ability to tax. Additionally, the Articles of Confederation did not provide for a national military, so threats from foreign nations were not handled well. What was the new government to do?

Recognizing the need for changes, leaders began discussing revisions to the Articles of Confederation. Soon, however, it became all too clear that revising the Articles was simply not enough. As a result, what came to be known as the Constitutional Convention—which met in Philadelphia during the summer of 1787—was called to write a new plan of government, a document that would become the US Constitution.

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# Preamble

**Background:** As a statement of guiding principles, the preamble to the Constitution describes what the new government hoped to accomplish for its citizens and what it still desires to fulfill today.

The opening phrase of the Constitution's preamble, "We the People" was important because it highlighted the fact that the ultimate power of the new government rested with the people themselves, rather than a king or the states. Our Founders, the Drafters and ratifiers of the Constitution, felt that the only way the new government could survive was to allow the people to participate in the formation of their new government. This is why the Constitution was ratified, or approved, directly by the people through special statewide conventions. Allowing the people to vote on the new government reinforced the idea that it was founded on the will of the people.

In the Preamble, the phrase "In Order to form a more perfect Union" was used to strengthen the idea that the American colonies were now going to be united as one government; did you know that an early draft of the Constitution read, "We the People of the states of Virginia, New Hampshire, etc?" Eventually the Drafters changed this language to again reflect that idea that the new government was one government, not 13.

Other principles expressed by the Preamble included the idea of "Establishing Justice" as a way to ensure that the government would treat its citizens fairly, and to avoid the unfair conditions created by the King of England prior to the War of Independence. "Domestic Tranquility" referred to the new government's commitment to keep peace within the country's borders. The phrase "Provide for the Common Defense" was meant to help the states feel safe from the threat of foreign nations, such as Great Britain and Spain, who felt that they had a claim to American territory. "Promote the general Welfare" was meant to ensure that the Federal Government would help take care of the citizens' well-being. Finally, "Secure the Blessings of Liberty" was a promise to promote a free and fair system of government that would protect citizens' freedoms, especially those laid out in [The Declaration of Independence](#).

#### References:

Carol Berkin, "We, the People of the United States: The Birth of an American Identity, September 1787" OAH Magazine of History Vol. 20, No. 4, American Identity (Jul., 2006), pp. 53-54

**Text/Adapted Text:**

**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.**

The people of the United States of America are making this official Constitution in order to form a united and just country that is peaceful, can protect its citizens in case of danger, guarantees that its citizens enjoy essential freedoms, and promotes the well being of everyone who lives there.

**Primary Source Documents Relevant to the Preamble:**

- 1) [English Bill of Rights](#) An expression of individual freedoms, the English Bill of Rights limited the authority of the Crown and laid the groundwork for constitutionalism. As a foundational document of Constitutional government, its influence can be seen throughout; at times, its language has been copied word for word.
  
- 2) [Final Draft of the Virginia Declaration of Rights](#) The Virginia Declaration of Rights served as an influential document for the Constitution. Some of the first articulations of the power of “the people” and the inherent rights owed to citizens, the document’s influence can be seen throughout.
  
- 3) [Benjamin Rush to Timothy Pickering](#) Written toward the end of the Constitutional Convention in August, 1787, this letter discusses the function of the Constitution. According to Benjamin Rush, the new Constitution will “restore order and happiness” to the states and “drive the new wagon,” or command a strong centralized union.
  
- 4) [Constitution of Massachusetts](#) Notable for its inclusion of an actual preamble—the first state constitution to do so—the Massachusetts Constitution was hugely influential to the Constitution. Aside from structure—with a preamble and articles—the Massachusetts Constitution expresses many similar themes as the Constitution, such as inherent rights and freedom of conscience.
  
- 5) [James Madison's Notes of the Constitutional Convention \(May 30, 1787\)](#) On this date, the delegates discussed whether the Articles of Confederation should be amended or replaced. Delegates questioned whether the Articles were capable to provide for the “common defense, security of liberty and general welfare” of all. After much discussion, delegates decided to replace the Articles of Confederation and work towards a new constitution.

# Article I

**Background:** The First Article of the Constitution provides the guidelines for the Legislative, or law-making, branch of government. The Drafters spent a long time crafting the Legislative Branch because they struggled with a way to give the legislature the power it needed without allowing it to become too powerful (something they had seen happen in state legislatures). In an attempt to solve this problem, the Drafters decided to organize the new government among three branches. Each of the three main branches—Legislative, Executive, and Judicial—would have separate authority and powers, which would prevent one of the other branches from gaining too much power. This idea is known as “Separation of Powers” and is viewed as an important innovation for prevented governments from becoming too powerful, or tyrannical.

The legislature designed by the Drafters was more powerful than the one that had existed under the Articles of Confederation. Power was now divided between two houses: a House of Representatives, elected directly by the people; and a Senate, which was thought to be ‘wiser’ as Senators were selected by state legislatures. The reason why the Drafters chose to organize the legislature this way will be discussed in the background of Article I, Section 2.

Under the Articles of Confederation, the Continental Congress lacked many powers needed to govern the states after the war. The Congress, as it came to be known under the Constitution, now had the power to tax, raise an army, regulate trade domestically and internationally, maintain diplomacy with other countries, create a system of Federal courts, and coin money. These new powers expanded the authority of the Federal Government.

## Article I Section 1

### **Text/Adapted Text:**

**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.**

The Congress of the United States holds all power to make laws for the country. It will consist of a Senate and a House of Representatives.

### **Primary Source Documents Relevant to Article One, Section One:**

1) [George Mason to George Mason Jr. \(May 20, 1787\)](#) George Mason, a delegate to the Constitutional Convention from Virginia, discusses the reasons for the convention and some of the difficulties in forming a new system of government in this letter. In particular, Mason’s letter discusses the difficulties faced by the delegates in designing the legislature so that both small and large states were fairly represented. Delegates from small states voiced concerns during the drafting of the legislative branch because they feared that representation by population alone would diminish their power in the legislature compared to states with large populations.

2) [James Madison's Notes on the Constitutional Convention May 29, 1787](#) Madison's notes for the day's proceedings detail Edmund Randolph's vision of a Constitutional framework with a two-house legislature.

3) [Plan of Government by John Dickinson \(June 17, 1787\)](#) Provides Pennsylvania delegate John Dickinson's vision of a new government with a two part legislature. Dickinson envisioned 1/7 of one house of the legislature to be voted on every year and that the other house (elected by the people not the states) would have 1/3 elected every year.

## Article I Section 2

**Background:** The House of Representatives is sometimes called “the People’s House” because in a certain sense, it reflects the will of the people better than the Senate. The House gained this reputation because the House of Representative was originally the only house that was directly elected to Congress (this was later changed by the Seventeenth Amendment, which required Senators to be directly elected by the people instead of by their state legislatures) Also, its members represent smaller groups of people and are therefore more accountable to them. How citizens would be represented in Congress was a hotly debated issue during the 1787 Constitutional Convention. The Drafters of the Constitution had great difficulty deciding if representation would be equal across the states or if it should vary based on the size of the state. At the Constitutional Convention, two plans gained popularity as solutions to this problem. One plan was known as the Virginia Plan and its two-house design reflected the desire for representation in Congress to be based upon the size of the state. Such a plan would have given states with larger populations greater decision-making power. This plan was disliked by smaller states, who responded with a plan of their own, the New Jersey Plan. The New Jersey Plan envisioned a Congress made up of a single house in which representation was equal across each state. While this solved the problem of varying populations across the states, the larger states argued that this unfairly gave citizens of smaller states a larger share of decision-making power than citizens living in larger states.

These two plans were eventually combined in a plan called the “Connecticut Plan.” As this plan satisfied the needs of both small and large states, it also became known as the “Great Compromise.” This plan described Congress as we know it today: two houses, one in which each state was represented according to its size (the House of Representatives); and a second, in which each state had equal representation (the Senate).

The Drafters planned to use each state's population (total number of citizens) to calculate the number of representatives in the House of Representatives. This raised the issue of who would be counted as a citizen. Thus, the Drafters had to address the issue of how to count slaves, who, at the time, were not considered citizens. But, because the South had many more slaves than the North, they wanted slaves to count toward their representation in Congress. Eventually the Northern and Southern states agreed that slaves would be counted as three-fifths of a person when counting each state's population. Following the end of the Civil War and the abolition of slavery, this agreement was rejected and every person counted equally.

As the population has grown over time, more people have come to serve in the House of Representatives. Today, the total number of representatives in the House is 435 after being capped in 1911.

**Text/Adapted Text:**

**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.**

The people elect the members of the House of Representatives every two years.

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

**Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.**

Members of the House of Representatives have to be at least 25 years old and citizens of the United States for 7 years to run for office. They are elected every two years. Each state gets a certain number of Representatives (1 Representative for every 30,000 people in the state), based on the findings of the census (a survey measuring the population of each state) taken every 10 years.

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

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

When a member of the House leaves their seat permanently, someone must replace them. Their replacement must be chosen by an election called by the governor or a state's highest executive official. The House of Representatives can choose their Speaker, or leader of the House and other such officers as they may set out in their own rules. Also, the House of Representatives is the only house of Congress that has the power to impeach, or charge a government official with "treason, bribery, or other high crimes and misdemeanors."

### **Primary Source Documents Relevant to Article One, Section Two:**

- 1) [Federalist #66](#) Hamilton's Federalist Paper discusses the importance of dividing the responsibility of impeachment to both houses in the legislative branch. "The division of them between the two branches of the legislature; assigning to one the right of accusing, to the other the right of judging; avoids the inconvenience of making the same persons both accusers and judges; and guards against the danger of persecution from the prevalency [sic] of a factious spirit in either of those branches."
  
- 2) [James Wilson in the Pennsylvania Convention \(December 4, 1787\)](#) Wilson's support of the Constitution in this speech discusses the Senate, focusing on the importance of its power to try impeachments. Wilson describes the impeachment process and commends the separation of impeachment authority between the two houses of Congress as an excellent check on this powerful tool to prevent tyranny.
  
- 3) [Address by the Pennsylvania Society for the Abolition of Slavery \(June 2, 1787\)](#) Included in the Constitutional section above is the Three-Fifths Compromise, which settled the issue of counting slaves for representation in the House of Representatives. The plea by the abolition society is an explicit reminder of the role slavery played in the formation of our new constitutional system of government

## **Article I Section 3**

**Background:** This section describes the original plan for the election of Senators, a process which was altered by the Seventeenth Amendment in 1913. Following the adoption of that Amendment, the people directly elected their Senators. Before this and according to the original Constitution, Senators were elected by their state legislature.

Why did the Drafters design the Senate like this? At the time, states were very worried about losing their independence to the new Federal Government. The selection of Senators by state legislatures was thought to be a way to lessen these fears because this would allow the Senate to be more responsive to state governments. Additionally, since Senators serve longer terms and represent their entire state (as opposed to Representatives who serve shorter terms and represent only portions of their state), this was a way to make sure that state interests were not lost in the Federal Government.

Section 3 also expands upon the impeachment powers of Congress. While the House is given the power to impeach a government official (to accuse an official's illegal actions), the

Senate has the power to try the impeached official (to investigate and decide upon the claims against them). There have only been two impeachment trials in American history: Andrew Johnson in 1868 and Bill Clinton in 1998. In both cases, the House filed articles of impeachment but the Senate declined to try the President.

**Text/Adapted Text:**

**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.**

Regardless of how large the states are, each state gets two Senators with one vote each. The Senators will be selected by the legislature in each state. Senators serve 6-year terms.

**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.**

1/3 of all Senators are up for election every two years. Also, if the Senator resigns or passes away in office, the governor of that state can pick his/her replacement until the next election is scheduled.

**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.**

Senators must be at least 30 years old, a citizen of the United States for at least nine years, and live in the state from which they were elected.

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

The Vice President is the official President of the Senate (leader) but he will not participate in Senate votes unless there is a tie in voting.

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

The Senators choose their own officers, including the President Pro Tempore, who acts as leader when the Vice President is absent or has assumed the role of the President of the United States.

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

The Senate has the special power to try impeachment cases (instances when a government official has violated the Constitution or committed another crime that is serious enough to warrant removal from office). If the President is tried for impeachment, the Chief Justice of the Supreme Court is in charge of the trial. When the Senate tries a case,  $\frac{2}{3}$  of the Senate must agree for there to be a conviction under the impeachment clause.

**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.**

The punishment for impeachment is limited to removing the person from their job and disqualifying them from holding government office again in the future. However, if they have committed crimes beyond those causing their impeachment, they can still be tried for those crimes under the law.

### **Primary Source Documents Relevant to Article One, Section Three:**

- 1) [Notes on Debates by John Lansing \(May 31, 1787\)](#) A New York delegate who would later leave the convention after he felt he could not faithfully execute the wishes of the New York legislature who sent him, Lansing's notes detail the inspiration behind the Senate: giving equal representation to big and small states.

- 2) [A Patriotic Citizen \(May 10, 1788\)](#) This anonymous letter written during the ratification debates highlights the importance of the impeachment power, as it is a guarantor of the people's rights.
  
- 3) [Federalist #79](#) Hamilton's Federalist Paper underscores the importance of giving Congress the power to impeach federal judges. Even though the judicial branch has relative autonomy, Congress still has the power to remove officials during bad behavior.

## Article I Section 4

**Background:** Article I, Section 4 discusses the states' role in the election of Senators and Representatives to Congress and the required meeting times of Congress.

Originally, the states were allowed almost complete independence in creating election rules. While states can still regulate elections, the passage of the Reconstruction Amendments (Amendments 13-15) empowered Congress to become more involved in ensuring that people are not denied the right to vote based on their race.

In 1933, the Twentieth Amendment altered the required meeting time of Congress. Instead of the first Monday in December, the Amendment now required Congress meet by the 3rd Monday of January.

The Twentieth Amendment also changed the date of presidential inaugurations. Congress did this to reduce the amount of time between the election of a new president and his/her inauguration. Before this Amendment, presidents were elected in November and sworn-in during March. Now, presidents are elected in November and inaugurated in January.

### **Text/Adapted Text:**

**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.**

States will decide how to run elections for Federal office with respect to the date and time of those elections, but Congress reserves the right to alter the state election laws, except as to the places of selecting Senators.

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

Congress will meet at least once each year, and these meeting should occur on the first Monday of December unless Congress passes a law to change this day.

### **Primary Source Documents Relevant to Article One, Section Four:**

- 1) [Response to Elbridge Gerry's Objections by Rufus King and Nathaniel Gorham](#) In this letter to Mr. Gerry, two strong proponents of the Constitution detail the safeguards in place to protect the right, and time, place, and manner of federal elections in the states. Congress has the ultimate oversight authority regarding federal elections.
  
- 2) [Centinel II \(October 24, 1787\)](#) In this anti-ratification publication, the author distrusts the House and Senate to determine the time, place, and manner of their elections, as he finds it might cause Congress to create rules that would help keep them in office, limiting the power of a citizen's vote.
  
- 3) [Strictures on the Proposed Constitution \(September 26, 1787\)](#) Written as a plea for speedy ratification though without the knowledge of having been at the Convention, the document specifically references, "strictures on the Constitution." Article I Section 4 is referenced, as is a justification for allowing Congress the control of "time, place, and manner."

## **Article I Section 5**

**Background:** Section 5 of Article I describes the way that each House of Congress should conduct their business, with each clause addressing a different part of Congress' day-to-day work.

While this section includes many rules for Congress, it also identifies one of Congress' powers: The power to Censure an elected official. Censure, which is an official citation for misconduct, is one of Congress' least used and often ineffective powers. Congress censured President Andrew Jackson in 1834 for not revealing a document the President had read to his advisors. However, Jackson's Censure was removed in 1837 and has only rarely been used since.

Attendance is an important topic covered in Section 5. Both houses of Congress must have a quorum, or half of their members plus one more, in order to do business. Today, a quorum is 218 in the House of Representatives and 51 in the Senate. However, the Constitution allows members of Congress to leave the floor in order to meet more privately with other members while still maintaining a quorum.

### **Text/Adapted Text:**

**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.**

The House and Senate decide whether their members are qualified to hold office, if they have been properly elected, and determine any disputed elections. To do business, each House must have a quorum (majority), but if there isn't a majority present, the members who are present can force the absent members to attend.

**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.**

The Senate and House each set their own rules for doing business and discipline their own members. For serious offenses both houses can expel a member if 2/3 of the house in which that Senator or Representative is a member agree.

**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.**

The Senate and House must keep a journal recording their work and publish it, except for those parts that in their judgment require secrecy.

**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.**

Neither of the houses of Congress can adjourn (close for business) for more than three days without the permission of the other. Also, they cannot adjourn to any location other than the Capitol, which is where both houses meet.

### **Primary Source Documents Relevant to Article One, Section Five:**

- 1) [Objections to the Constitution \(August 30, 1787\)](#) Written before the Constitution was ratified, this document provides a list of eleven objections. The second objection reads, “2d. The expulsion of members of the Legislature is not sufficiently Checked.”
  
- 2) [Pinckney: Speech in South Carolina House of Representatives \(January 17, 1788\)](#) Writing in defense of the Constitution, Charles Pinckney points out that with the power to compel Congressmen to the floor, comes a more efficient legislature. This reflected a growing frustration over a lack of quorum that plagued the Continental Congress under the Articles of Confederation.

3) [Theophilus Parson's Notes of the Massachusetts Ratification Convention \(January 21, 1788\)](#)

Parson's notes pinpoint the debate in the Massachusetts legislature over the section above. A number of Massachusetts delegates were concerned with the secrecy clause and the ambiguous "from time to time" language.

## Article I Section 6

**Background:** While the United States may have declared independence from Great Britain in order to eliminate abuses by the monarchy, the Drafters recognized that some elements of the old English government were good ideas and important to include in the Constitution. These included ideas such as the clause in Section 6 which protects representatives in Congress from being punished for giving their opinions. The "Speech and Debate" clause prevents members of the legislature from being arrested or otherwise punished for items discussed during debates.

Section 6 provides for the payment of members of Congress. This clause that was later modified by the Twenty-Seventh Amendment, which seeks to prevent members of Congress from arbitrarily raising their own pay.

**Text/Adapted Text:**

**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.**

Congressmen are paid at a rate determined by law. Also, members of Congress cannot be arrested during their attendance at the session of their house or in going to and returning from that session. They also cannot be arrested for any statements made in either house during a session.

**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 [sic] 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.**

No member of Congress may accept a government job that was created during the time the senator or representative was elected or appointed, and a member of either House cannot hold any other office in the United States while he/she is still actively serving in Congress.

### **Primary Source Documents Relevant to Article One, Section Six:**

- 1) [James Wilson's Notes of the Pennsylvania Ratification Convention \(December 3, 1787\)](#)  
Wilson's notes list some of the objections citizens from Pennsylvania had to the Constitution. In particular, Pennsylvania residents did not like the protections of members of congress with the "speech and debate" clause.
  
- 2) [Federalist #76](#) Hamilton's Federalist #76 defends the power of executive in the new Constituion. Hamilton points to the "Speech and Debate" clause in Article I, Section 6 as an important safeguard for Congress from the power of the Executive.
  
- 3) [Charles Pinckney in the United States Senate \(March 5, 1800\)](#) Pinckney's speech on the Senate floor is a defense of the "privileges" clause in the above section. Pinckney reassures the chamber that only explicit privileges written in the Constitution are given to Congressmen; it is not vague like the British system.

## **Article I Section 7**

**Background:** Section 7 of Article I details the taxation power of Congress and explains the process from turning a proposed law, or bill, into an official law.

Fulfilling their promise to create a government for the people and by the people, the Drafters sought to make taxation--a necessary addition to the new government--as democratic as possible. They did this by stating that all laws about taxes must originate in the House of Representatives. Since each Representative is directly elected by citizens and are responsible for a smaller population than a Senator, Representatives can hear and represent the interests of more citizens. For this reason, the House of Representatives is often called the "Peoples' House."

In explaining the process of turning a bill into a law, Section 7 mentions two ways in which the President can reject, or veto, a law proposed by Congress. In addition to a direct veto, in which the President refuses to sign the bill into law, he may also use a "Pocket Veto." This means that if Congress passes a bill and then goes on break, the President can refuse to sign the bill--putting it in his/ or her "pocket." If the President does this and the bill isn't signed within 10 days, the bill dies. Congress would then either have to redraft the bill and submit it to the President for his or her signature again, or they could override the effective veto with a 2/3 vote in each house of Congress. James Madison was the first president to use the pocket veto in 1812.

**Text/Adapted Text:**

**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.**

Any bill about raising taxes must be first passed by the House of Representatives. However, the Senate can propose changes. Both houses must agree on the final version of the bill.

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

Every law proposed to Congress must be approved by the House of Representatives and the Senate before it is presented to the President of the United States to be signed into law. If the President approves the bill, he or she can sign it into law. If he or she does not, the bill is vetoed. Congress can override the President's veto with a 2/3 vote in each house. If, while Congress is in session, the President fails to return a signed bill to congress within 10 days (not including Sundays), the bill will become law, just as if the President had signed it. However, if the President is sent the bill and refuses to sign it while Congress is on break, the bill will not become law.

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

Any order, resolution, or vote that has the force of a law must be passed as a bill: passed by both houses and sent to the President.

### **Primary Source Documents Relevant to Article One, Section Seven:**

- 1) [Pierce Butler to Weedon Butler](#) A South Carolina delegate's letter to his relative, this document provides justification for the design of the government. Specifically, Mr. Butler cherishes the veto/override as a hallmark of the separation of powers. He writes, "The President of the United States is the Supreme Executive Officer. He has no separate legislative power whatever. He can't prevent a Bill from passing into a Law. In making Treaties two thirds of the Senate must concur. In the Appointment of Ambassadors, Judges of the Supreme Court, &ca., He must have the concurrence of the Senate. He is responsible to His Constituents for the use of his power. He is Impeachable."
  
- 2) [A Federal Republican: A Review of the Constitution](#) Written during the Ratification Debates, the document provides a defense of the structure of government devised. He writes, "It is better that many good bills should be destroyed than that a single bad one should be permitted to pass. Were it not for this circumstance, there would be little advantage. For although the passion of the one might sometimes be controuled by the coolness of the other; yet the passion of the latter might sometimes counteract the wisdom of the former. Experience however shows it to be wise to divide the legislative power between two distinct bodies."
  
- 3) [Notes on Debates by Robert Yates \(July 5, 1787\)](#) Yates' notes on the Constitutional Convention provide a glimpse of Madison's rationale for dividing responsibilities between the two houses. Addressing the concern of individual states' interests being trampled Madison said, "When we satisfy the majority of the people in securing their rights, we have nothing to fear; in any other way, every thing. The smaller states, I hope will at last see their true and real interest."

## **Article I Section 8**

**Background:** Article I, Section 8 sets out the powers, or specific duties, of Congress. While the Drafters knew that Congress could protect the new government against tyranny, they also didn't want to leave any chance that Congress would itself become oppressive. They did this by clearly enumerating, or outlining, the powers of Congress. Congress has the power to:

1. **Tax:** This power was essential in order for the new government to fulfill its promises to provide for the common defense and general welfare described in the Preamble. This would include being able to do things like support a military for the country's protection and build roads or post offices to help make citizens' lives easier. The inability to tax had been a big reason for the failure of the Articles of Confederation. The income tax is an example of the type of tax permitted by this power.
2. **Borrow money:** The Drafters did not want to risk the Federal Government becoming financially dependent on the states (because they believed this would give states too much power over the actions of the Federal Government) so they gave Congress the ability to borrow money from other nations if they need to.
3. **Regulate Commerce:** This power means that Congress may establish standard rules for conducting business amongst the states (but not inside the state), with foreign countries, and with Native Americans.

4. **Establish Naturalization Rules:** Congress can set rules about how immigrants can become citizens of the United States.
5. **Coin Money:** In the Articles of Confederation, there was no national currency, which led to uncertain economic conditions. With a federally coined currency, economic transactions could be standardized.
6. **Punish Counterfeiting:** This power allows Congress to enforce a standard national currency.
7. **Establish Post Offices:** This power allowed the new government to establish a standardized, national mail system.
8. **Protect Inventors and Authors:** This power is about copyright, which allows the government to protect the ideas of its citizens from theft or infringement.
9. **Establish Courts:** This power gives Congress the ability to create federal courts below the Supreme Court.
10. **Punish Treason and Crimes Committed On the Seas:** The power to punish piracy was especially important around the time of the Constitution because at that time, American shipping was the target of pirates in the Mediterranean Sea.
11. **Declare War:** By giving Congress this power, the Drafters hoped to ensure that entering into war would not be done lightly and that the decision could be made by the people, since they would ultimately be the ones fighting the war.
12. **Raise and Support an Army & Navy:** Prior to the Constitution, the government had no way to protect itself against enemies with a national military.
13. **Provide For the Calling Out Of the State Militias For Use By the Federal Government:** This power gives Congress the authority to support and authorize the President to call out a militia when necessary. At the time the Constitution was written, militias—a less formal military—served the important role of protecting the young nation from unforeseen attacks and insurrections. Presidents have employed this power to enforce federal law during desegregation disputes during the 1950s, and later during the civil disturbances in various cities during the 1960s.
14. **Govern the District of Columbia and Other Government Areas:** With this power, Congress is able to control areas of the nation that would be government-owned, such as military bases and forts. Congress is also given the authority to delegate power in governing the capitol of the nation.
15. **Create laws That are Necessary to Fulfill the Above Listed Powers:** This power, also referred to as the "necessary and proper", or "elastic clause," enables Congress to make all laws needed to execute any of the enumerated powers mentioned above.

**Text/Adapted Text:**

**The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;**

Congress has the power to collect taxes in order to pay the nation's debts (money owed), and to provide for the common defense and general welfare. The Federal taxes should be the same regardless of the state.

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

Congress can borrow money on credit.

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

Congress can pass laws related to commerce (the economic activity of buying and selling goods) with foreign nations, between states, and with Indian tribes.

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

Congress can establish the rules for foreign-born individuals to become American citizens. Congress also determines bankruptcy laws, which are used when citizens or companies are not able to pay their debts.

**To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures; To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;**

The Federal Government has the power to make a uniform currency and punish those who try to make fake money.

**To establish Post Offices and post Roads;**

Congress has the authority to establish a system for transporting and delivering mail.

**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;**

Congress promotes the development of science, manufacturing and art by the copyright system, which protects authors and inventors by giving them exclusive rights to their work and prohibiting others from copying their work without permission.

**To constitute Tribunals inferior to the supreme Court;**

Congress has the power to create all of the lower courts under the Supreme Court (the highest Federal court, created by Article III of the Constitution) and determine their responsibilities.

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

The United States criminalizes piracy, the practice of attacking and robbing ships, and will punish pirates according to the law that has developed between civilized nations in accordance with the developed “law of the sea,” guidelines for use for the world’s oceans.

**To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water; To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years; To provide and maintain a Navy; To make Rules for the Government and Regulation of the land and naval Forces;**

Congress has the power to declare war and authorize people outside of the military to act on the behalf of the United States during wartime. Also, Congress has the authority to raise and maintain an Army and a Navy. Finally, it is Congress that determines the rules of the military.

**To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;**

Congress can employ the state militias to execute the laws of the Federal Government, to suppress internal rebellion, and to prevent foreign invasion.

**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;**

Congress governs the district which will serve as the national Capital. Today, that District is known as Washington, DC. The District will be made by land given from particular states, in this case Maryland and Virginia.

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

Congress is empowered to make all laws that are necessary to ensure that they can fulfill the duties that are given to them under the Constitution; they also have the responsibility to make laws governing the powers of the rest of the government.

### **Primary Source Documents Relevant to Article One, Section Eight:**

- 1) [Sherman and Ellsworth to the Governor of Connecticut \(September 26, 1787\)](#) Written by two strong federal supporters, the letter to the executive of Connecticut provides a justification of the enumerated rights of Congress in Article I Section 8.
  
- 2) [Federalist #15](#) Hamilton's Federalist Papers describes the inadequacies of the Articles Government and the need for a strong central power, or one with meaningful enumerated rights.
  
- 3) [Federalist #44](#) Madison's defense of the necessary and proper clause. He writes, "Few parts of the Constitution have been assailed with more intemperance than this; yet on a fair investigation of it, no part can appear more compleatly [sic] invulnerable. Without the substance of this power, the whole Constitution would be a dead letter."
  
- 4) [ConSource Index of the Enumerated Powers](#) This link will direct you to Consource's Constitutional index which will allow you to view lists of primary source documents specific to each of Congress' enumerated powers listed in Article I, Section 8.

## Article I Section 9

**Background:** Section 9 lists areas where Congress is prohibited from making laws. These include special prohibitions on certain taxes and uses of federal funds. In prohibiting Congress from acting in the areas listed by Section 9, the Constitution identifies some individual liberties, including rights of the accused and the sovereignty (power/authority) of the states when it comes to the slave trade.

Section 9 begins by prohibiting Congress from making laws regulating the slave trade until 1808, which was included as part of a compromise with the Southern states. The slave trade, which brought African men and women to the United States as unpaid laborers, was essential to the economy of the Southern states. The Constitution protected the slave trade in order to secure Southern support for its ratification. With the abolition of slavery following the ratification of the Thirteenth Amendment, this section became obsolete.

Section 9 also provides that the privilege of the “Writ of Habeas Corpus,” should not be suspended unless certain conditions are met. Habeas Corpus means, “show me the body,” and requires that citizens who are put in jail be tried quickly and given reason for their continued imprisonment. It is included in Section 9 as a fundamental individual liberty, guaranteeing that no one may be thrown in prison without a reason.

In order to protect against certain abuses caused by the British government, the Framers also prohibited law singling out specific individuals and those that punished people for activities that were legal when they engaged in them, but later became illegal.

### **Text/Adapted Text:**

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

The slave trade may not be prohibited until 1808; although a tax on slaves being imported will be allowed if that tax does not exceed ten dollars for each person.

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

The Writ of Habeas Corpus (the guarantee that citizens who are put in jail be brought before a judge in a timely manner so that they be given reason for their imprisonment and be able to challenge their imprisonment) may not be suspended unless during times of war or invasion, when the public is in danger.

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

Congress is not allowed to pass bills of attainder (laws that single out a particular individual or a group as guilty of wrongdoing) or ex post facto laws, which means “after the fact.” It is a law that retroactively changes the legal consequences of actions that were committed, or relationships that existed, before the enactment of the law.

**No Capitation, or other direct, Tax shall be laid, unless in proportion to the Census or enumeration herein before directed to be taken.**

The federal tax rate cannot vary state to state, it must always set in proportion to the population.

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

Congress cannot tax goods sent out from a state for sale to foreign countries or those goods that move between states.

**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.**

Congress cannot favor one state over another in their regulation of trade. American ships are free from paying taxes in all American ports.

**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.**

Any spending by the Federal Government must be congressionally authorized and an account of all spending must be published.

**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.**

The United States government is prohibited from granting titles of nobility, such as King, Queen, or Duke. Furthermore, anyone holding office cannot accept gifts, offices, or titles from any foreign government.

### **Primary Source Documents Relevant to Article One, Section Nine:**

- 1) [Brutus II \(November 1, 1787\)](#) Opposition piece of the anti-ratification camp, Brutus II questions whether these restrictions on congressional authority have any weight outside Congress. Essentially, Brutus II questions if the prohibitions in Article I, Section 9 are enough. He argues that a Bill of Rights is still needed as an additional safeguard.
- 2) [Undelivered Speeches by William Cushing \(February 4, 1788\)](#) Provides a defense of the appropriation power of Congress. He wrote, “Sad experience, I take it, has bro't us all to one general point—to one certain conclusion—that efficient governmental [sic] powers must be lodged in Congress; as far as respects all great national concerns, & especially the general defence & Safety.”
- 3) [Federalist #84](#) Hamilton’s Federalist Paper is a catch-all defense of the Constitution, but more specifically a response to objections over a lack of a Bill of Rights. Hamilton emphasizes that Article I Section 9 includes strict limits on congressional authority that guarantee many individual rights.

## **Article I Section 10**

**Background:** Section 10 limits the powers of the states. While a lot of debate during the Constitutional Convention was concerned with protecting the states from too much federal power, the Drafters also realized the necessity of ensuring that the states did not become too powerful or attempt to take on powers that had been given to the Federal Government. By setting down explicit limits for the states, the Drafters ensured the supremacy of the Federal Government.

### **Text/Adapted Text:**

**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.**

States are not allowed to: make treaties, alliances, or confederations with other governments or with each other; authorize citizens to attack or capture enemies; create their own money (bills or coins); use anything but the standard currency to pay debts; pass Bills of Attainder, ex post facto laws, or any laws that would infringe on legal contracts; or, grant titles of nobility.

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

States cannot interfere with international trade and whatever trade laws they consider “absolutely necessary” are subject to the review of Congress.

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

States cannot do the following without Congressional approval: charge money to those seeking to enter, do business in, or remain in, a port (harbor where ships unload cargo); keep soldiers or war ships active during times of peace; enter into treaties with other states or foreign nations; or engage in war (unless the state is in immediate danger).

### **Primary Source Documents Relevant to Article One, Section Ten:**

- 1) [Rhode Island Committee to James Varnum \(May 14, 1787\)](#) This letter from a Rhode Island trade association clamors for free trade amongst the states and most importantly, a uniform currency throughout the union.
- 2) [Federalist # 42](#) Madison's Federalist paper is a justification for the restrictions on state authority in Section 10. Without a single source of national authority, the nation could not survive.
- 3) [Journal Notes of the Virginia Ratification Convention Proceedings \(June 16, 1788\)](#) This document details the Virginia ratification debates, specifically the notion of federalism, or the division of authority between federal and state governments. On this date, special attention was given to the “Imminent Danger” clause, which provides the circumstances in which states may use their militias to protect themselves.

## Article II

**Background:** Article II of the Constitution outlines the Executive Branch, which includes the office of the President. While the Drafters of the Constitution were worried that the President could become a tyrannical ruler like the King of England if he or she was given too much power, they also realized the necessity of a chief executive after going without one under the Articles of Confederation. As a solution, the Constitution provides for an executive officer who is limited with clearly defined powers.

### Article II Section 1

**Background:** Section I describes the President's job and how he or she is elected. The president created by the Constitution serves as our nation's head of state. This means that when the United States interacts with other nations, the President presides over that conversation. In many ways, the President acts as the principal of a school. While he or she may not always decide what happens in a classroom, the principal is able to watch over the school and ensure that it runs effectively. While the President does not have law-making powers, he or she can influence the legislative process by deciding whether or not to officially sign a bill into law. However, there are some powers that are special to the president. These powers usually relate to the President's role as the leader of our country. These special presidential powers will be discussed in the background of Sections 2 and 3.

Section 1 however, begins by stating the term of a President. When he became president, George Washington set the standard that presidents serve two terms. All presidents followed Washington's lead, serving at most two terms, until President Franklin D. Roosevelt was elected for a third consecutive term in 1940. However, with the passage of the Twenty-Second Amendment, presidents are now limited to serving two consecutive terms to avoid the possibility of presidents becoming too much like a king.

Section 1 also discusses the Electoral College. The Electoral College is the body used to elect the President; it came about as a compromise between those who wanted Congress to elect the President and those who wanted the people to be in charge. The electors, now chosen by the people, select the President. For example, Texas has 38 electoral votes, meaning that there are 38 people (2 Senators and 36 House members) that vote for the President. Depending on the rules of the state, the electors vote in a certain way. The Constitution forbade Congressmen from serving as electors.

Section 1 also describes what happens if the President cannot perform their duties, and process that was changed by the Twenty-Fifth Amendment.

#### **Text/Adapted Text:**

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

The President is the chief executive of the United States. After the President is elected, he/she holds office for four years, together with the Vice President, and both are elected officials.

**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.**

Each state's legislature will direct the process of choosing electors for the Electoral College. The numbers of electors from a given state may not exceed the total numbers of Senators and Representatives that state has in Congress. A person currently holding another government office is prohibited from serving as a presidential elector.

**The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.**

**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.**

At election time, each state's chosen electors will meet in their respective states to choose two candidates, and at least one of those candidates must be from a different state than their own.

In each state, electors should keep a careful list of these votes, which should be signed and sealed and taken to the capitol of the United States. The President of the United States will then open and count the votes. The candidate receiving the greatest number or majority of the votes will become President. If there is no majority for a candidate, then the House will choose the President. When this happens, each state will have one vote and  $\frac{2}{3}$  of the states must be represented in the House to hold the vote. In both cases, the Vice President will be identified as the candidate having the second most votes. If, when the House votes on the President, there is still a tie, then the Senate shall choose the Vice President.

Congress controls the time, place and manner of presidential elections. The day chosen by Congress for this election should be the same throughout the United States.

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

Only those born in the United States, or are a citizen of the United States (born to at least one American parent) are eligible to run for president. Additionally, to run for president, candidates must be at least 35 years old and a resident of the country for 14 years.

**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.**

In case of the death, resignation, or inability of the President to do his job, the Vice President will take over. In addition, if the Vice President is also unable to do his job, Congress is allowed to declare which executive officer will act as president until another Vice President or President is elected.

**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.**

Congress sets the President's pay, but they cannot change it while he or she is in office. The President may not accept any other form of payment from the government or states.

**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."**

Before beginning their term, the President must take an oath of allegiance to the United States and to his/her duty as president: "I do promise that I will faithfully fulfill my role as President to the United States, and will preserve, protect and defend the Constitution of the United States to the best of my abilities."

### **Primary Source Documents Relevant to Article Two, Section One:**

- 1) [One of the People \(October 17, 1787\)](#) A defense of the Constitution in support of ratification, this tract tries to combat the perceived problems of having a single executive.
  
- 2) [Melancton Smith's Notes of the New York Ratification Debates](#) Debate in the New York ratification convention over the fear of centralized power. In this exchange Hamilton discusses the importance of separation of powers, in limiting the power of the executive.
  
- 3) [Alexander J. Dallas' Notes of the Pennsylvania Ratification Convention \(November 30, 1787\)](#) Discussion during the Pennsylvania ratification debates on the need to check the power of the Executive.

## **Article II Section 2**

**Background:** Section 2 of Article II outlines many of the president's powers, including the power to: command the United States military; to grant pardons for criminal offenses; to make treaties; and, to appoint ambassadors, Supreme Court justices, and other officers of the United States. Section 2 also establishes the role of Congress (particularly the Senate) in checking the president's powers. "Advise and Consent," is such a clause that provides a check on presidential power. This clause requires that the President consult the Senate and have a two-thirds or majority vote of their approval when making treaties with foreign governments and appointing certain government officials.

**Text/Adapted Text:**

**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.**

The President is the chief military officer and may seek advice from anyone in high-level government positions. Also, the President has the power to forgive someone for committing any crime unless that someone has been officially impeached.

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

the President has the power, with the advice and consent of the Senate, to make treaties with foreign nations, as long as the treaty is approved by a two-thirds vote of the Senate. The President is also empowered to nominate and appoint ambassadors, Supreme Court justices, and other governmental officials; but must also have these nominations approved by a majority vote of the Senate. However, Congress is given the authority to allow the President to make certain appointments that will not require Senate approval.

**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.**

If the Senate is in recess (not in session) and the President needs to fill a position, he/she may do so. However these recess appointments expire at the end of the next session of Congress.

**Primary Source Documents Relevant to Article Two, Section Two:**

- 1) [Constitution of Massachusetts \(October 25, 1780\)](#) The Massachusetts state constitution set up an executive with checks and balances and responsibilities that would be included in the Constitution.

- 2) [A Farmer of New Jersey: Observations of Government](#) A celebration of the Constitution, writing of the balance in the Executive Branch: “The powers that must necessarily be entrusted in the hands of the President, are amply sufficient to preserve his respectability and independence. Were they greater, he might become dangerous: for which reason the revision of the laws is not left solely to him.”
- 3) [Federalist #4](#) Jay’s Federalist Paper details the importance of having a strong executive for protection to serve as the Commander in Chief.

### Article II Section 3

**Background:** Section 3 discusses the President’s annual address, commonly referred to as the State of the Union. Surprisingly, this address was not always delivered as a public speech. Presidents usually submitted a written address until Woodrow Wilson (1913-1921) first read his State of the Union address before Congress.

Section 3 also talks about the presidential power to convene or adjourn the houses of Congress. The power to adjourn Congress has yet to be used.

**Text/Adapted Text:**

**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.**

From time to time, the President gives an address to Congress telling them how things are going and what he/she would like to see done. The address details the President’s accomplishments and what he or she would like to see done in the next year. The President also has the power to bring Congress into session when they are on a break and can stop them from meeting. Finally, the President receives all foreign officials and makes sure that all laws from Congress are enforced.

**Primary Documents Relevant to Article Two, Section Three:**

- 1) [North Carolina Ratification Debates \(July 28, 1788\)](#) Extensive debate surrounding Executive authority that reflects many delegates’ desire to limit the power of a single authority figure. North Carolina would not ratify the Constitution until after the creation of a Bill of Rights and the election of George Washington.

2) [Cato VII](#) Written as an Anti-Federalist tract in January of 1788 during the ratification debates, Cato's letter expresses unease at the closeness between the executive branch and the Senate. The author feels the Senate's check is meaningless if the Executive has the authority to convene and disband the legislature.

3) [Federalist #69](#) Hamilton's paper on the "real characters of the proposed executive." In it, Hamilton argues that the executive, as designed in the Constitution, bears little resemblance to that of a monarch because of the numerous checks against the office. Hamilton considers the possibility that the governor of New York may possess more power than the President of the United States. That said, the executive still retains significant autonomy.

## Article II Section 4

**Background:** Section 4 discusses the reasons for which the President, Vice President, or a governmental official may be impeached. These crimes include: treason, bribery, or actions an official has taken that violate the conduct expected of their office (such as stealing money from their department, lying while under oath, violating the law). The House of Representatives has only ever impeached two Presidents, Andrew Johnson and Bill Clinton, although neither were convicted by the Senate.

### **Text/Adapted Text:**

**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.**

Government officials can be impeached (charged with wrong-doing), for the following crimes: Treason (helping to overthrow the government/aiding the enemy), Bribery (receiving or giving money or something of value to get them to do what you want), High Crimes and Misdemeanors (lying under oath, abusing power, disobeying the law, intimidation, etc.).

### **Primary Documents Relevant to Article Two, Section Four:**

1) [Constitution of Maryland](#) The Maryland Constitution includes this provision regarding removal from office: "XXXIX. That if any Senator, Delegate to Congress or Assembly, or member of the Council, shall hold or execute any office of profit, or receive, directly or indirectly, at any time, the profits or any part of the profits of any office exercised by any other person, during his acting as Senator, Delegate to Congress or Assembly, or member of the Council-his seat (on conviction, in a Court of law, by the oath of two credible witnesses) shall be void; and he shall suffer the punishment of wilful and corrupt perjury, or be banished this State forever, or disqualified forever from holding any office or place of trust or profit, as the Court may judge."

2) [Notes on Debates by John Lansing \(June 18, 1787\)](#) The day's notes reflect the delegates' desire to establish a means of impeachment to remove the threat of a monarchy. "Executive ought to be during good Behaviour—He will part with his Power with Reluctance. You ought to interest him in the Government. This may be objected to as establishing an elective Monarchy—but he will be liable to Impeachment for mal-conduct. The Election it supposed would cause Tumults—To avoid this the People in each District should chuse Electors—those should elect a few in that."

3) [James Madison's Notes on the Constitutional Convention \(July 20, 1787\)](#) Madison's justification for impeachment: "Mr. Madison — thought it indispensable that some provision should be made for defending the Community agst the incapacity, negligence or perfidy of the chief Magistrate. The limitation of the period of his service, was not a sufficient security. He might lose his capacity after his appointment. He might pervert his administration into a scheme of speculation or oppression. He might betray his trust to foreign powers...In the case of the Executive Magistracy which was to be administered by a single man, loss of capacity or corruption was more within the compass of probable events, and either of them might be fatal to the Republic."

## Article III

**Background:** Article III of the Constitution establishes and describes the role of the Judicial Branch, or national system of courts. The Judicial Branch is sometimes considered the least democratic of the three because Federal judges are nominated by the President and confirmed by the Senate rather than elected by the people. Many states, however, provide for the election of state judges, which presents its own challenges.

It is important to remember that Article III only discusses the Federal Court system and that there are also state court systems as well. The U.S. Supreme Court is the highest court in the federal system and the court best described in Article III.

### Article III Section 1

**Background:** The Judicial Branch outlined in Article III Section I was very different from other models of court systems that were popular in the state constitutions of the time. Section 1 of Article III sets up a system of courts in which the Supreme Court sits at the top of the Judicial branch (indicated not only by the use of the word supreme, but also the word inferior to describe other courts). Additionally, the Drafters separated the new Constitution's judicial branch from its ancestors in the state constitutions by providing Justices immunity from arbitrary expulsion and cementing their salaries. This helped protect the Court's independence so that it could make decisions independently of changes in the other branches.

#### Text/Adapted Text:

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

The supreme judicial power of the United States is given to the Supreme Court. Congress has the power to create any and all inferior (lower) courts. Judges of both the supreme and lower federal courts have lifetime appointments and can only be removed if they do not maintain their "good behavior." Congress sets the level of pay for Federal judges, which cannot be reduced while the judge is in office.

### **Primary Source Documents Relevant to Article Three, Section One:**

- 1) [New York Ratification Convention Debates and Proceedings \(July 19, 1788\)](#): This record of New York’s ratification of the Constitution on July 19, 1788 goes into detail about the importance of an independent judiciary, and briefly details its powers.
  
- 2) [Federalist No. 39 \(January 16, 1788\)](#): Described the independence and tenure of judges of the Supreme Court and lower courts, with special attention paid to the definition of “good behavior.”
  
- 3) [Federalist No. 78 \(March 21, 1788\)](#): In this piece, Hamilton described the importance of what later be known as Judicial Review, the federal courts’ power of determining the constitutionality of laws to make sure that they are in keeping with the Constitution. Therefore it was important that the Federal judicial branch be both supreme independent so that it could use this vital power.
  
- 4) [James Wilson’s Notes of the Pennsylvania Ratification Convention \(December 7, 1787\)](#): Wilson’s notes address how the new Constitution’s court system works.
  
- 5) [Brutus XI \(June 16, 1789\)](#): In this document, John Dickinson weighed the powers of the judiciary against their lifetime, “good behaviour” appointments and considers their compensation.

## **Article III Section 2**

**Background:** Section 2 outlines the types of cases in which the Supreme Court has jurisdiction, or authority, to make decisions.

Because the Supreme Court is the highest court in the United States, it is also given Original Jurisdiction, or the power to hear a case for the first time. The court can do this for cases involving public officials or ambassadors as well as those that involve a state as a party.

As outlined in Section Two, the Supreme Court can act as an appellate court, which means that it can hear cases decided in lower courts where one or more of the parties involved wants to question the verdict. The Supreme Court decides on which of these cases to hear by looking for important Constitutional issues brought up in a case.

Finally, this section importantly states that all criminal trials (except for impeachment cases) must have juries, a panel of citizens randomly selected to pass judgement. This protects citizens from unfair treatment by the law.

**Text/Adapted Text:**

**The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;--to all Cases affecting Ambassadors, other public Ministers and Consuls;--to all Cases of admiralty and maritime Jurisdiction;--to Controversies to which the United States shall be a Party;--to Controversies between two or more States;-- between a State and Citizens of another State,--between Citizens of different States,--between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.**

The Federal Judiciary's power covers any and all cases that arise because of questions about the Constitution, the laws of the United States, and treaties made by the government. The Federal Court also has the power to try cases involving foreign ambassadors (representatives of foreign governments); disputes in which the United States government is a party; disputes between states, and those between the citizens of a state and foreign states or citizens of said foreign states. Also between citizens of the same state who both claim lands under the grant of a different state.

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

In cases trying representatives of foreign governments or disputes between states, the Supreme Court can hear the case directly, without the need to appeal from a lower court. In all other cases, a lower court must first hear the case, and then the Supreme Court can hear the dispute once it is appealed to them.

**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.**

With the exception of impeachment trials for public officials, all criminal trials will have juries. These trials will be held in the state in which the crime was committed, but when the crime is committed in no particular state, Congress determines the location of the trial.

### **Primary Source Documents Relevant to Article Three, Section Two:**

- 1) [James Wilson's Notes of the Pennsylvania Ratification Convention \(December 1, 1787\)](#): Wilson's notes addressed the debate by Pennsylvania delegates on whether or not the Judiciary's new powers constituted a "consolidating," authoritarian government.
  
- 2) [Journal Notes of the Virginia Ratification Convention Proceedings \(June 19, 1788\)](#): These notes on the Virginia Ratification debates pay special attention to the jurisdictional powers and independence of the new Constitution's judiciary and outline potential causes for concern that would later be taken up by the Anti-Federalists.
  
- 3) [Roger Sherman- \(December 8, 1787\)](#): Sherman's letter outlined many aspects of the new Constitution as the Drafters envisioned them, but he paid special attention the specific duties and the jurisdictional powers of the new Judicial Branch.
  
- 4) [Centinel II \(October 24, 1787\)](#): This Anti-Federalist tract criticized the lack of inclusion of juries for civil trials in the Constitution; this would later be included in Seventh Amendment, part of the Bill of Rights.

## **Article III Section 3**

**Background:** Article III, Section 3 of the Constitution defines treason, the crime of betraying your country. As defined by the Constitution, "treason" consists of either making war against the United States or aiding its enemies through supporting their attempts to do the same. However, no one accused of treason can be convicted of the crime unless they confess in open court or there are at least two witnesses to the act of treason in question.

### **Text/Adapted Text:**

**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.**

Treason consists of making war against the United States and aiding its enemies. No one accused of treason can be convicted of the crime unless they confess in open court, or there are two witnesses to the act of treason in question.

**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.**

Congress reserves the power to punish those convicted of treason. The punishment for treason extends only to the individual convicted of treason. The descendants of someone convicted for treason cannot be considered "tainted" by the treason of their ancestor. Furthermore, Congress may confiscate the property of traitors, but that property must be inheritable at the death of the person convicted.

**Primary Source Documents Relevant to Article III, Section Three:**

- 1) [The Federalist No. 74 \(March 25, 1788\)](#): This piece addresses the importance of defining treason, so that the actions taken by the factions that are part of politics cannot be construed as treason under false pretenses.
  
- 2) [The Federalist No. 74 \(March 25, 1788\)](#): In this document, Alexander Hamilton outlined the definition of treason as it is discussed in the Constitution and related it specifically to the act of sedition, contextualized in the document as similar to the recent upheavals in Massachusetts.
  
- 3) [Thomas Lloyd's Notes of the Pennsylvania Ratification Convention \(December 4, 1787\)](#): Lloyd's notes addressed the fairness of the process of convicting and punishing someone for treason, weighing the definition of the crime and how well its punishment comports with the severity of the crime.
  
- 4) [James Wilson's Notes of the Pennsylvania Ratification Convention \(December 4, 1787\)](#): Wilson importantly includes the Constitution's restriction against attainder and corruption of blood as a reason to vote in favor of ratifying the document. Unlike the British system, under the Constitution the punishment for treason would be confined to the person who had committed the act.

# Article IV

**Background:** Article IV of the Constitution describes the states' relationship with each other and describes areas where the Federal Government has direct control over state policy. After a failed experiment with a loose confederation government under the Articles of Confederation, the new Constitution aimed to remedy this problem by ensuring that the states would be responsible to the Federal Government, while still maintaining their sovereignty (keeping some power and remaining independent of the national government on some issues). Article Four was viewed as essential in creating "a more perfect union."

## Article IV Section 1

**Background:** Article IV, Section 1 ensures that each state treats all other states fairly, something that had been a problem under the Articles of Confederation. Under the new Constitution states, would have to recognize the legitimacy of another state's laws and judicial rulings. States were also compelled to recognize official state documentation, like licenses, that differed from state to state.

### Text/Adapted Text:

**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.**

States must respect the sovereignty of other states' laws and judicial decisions, and Congress has authority over how the power of states' laws and judicial decisions can be proved.

### Primary Source Documents Relevant to Article Four, Section One:

- 1) [James Madison's Notes on the Constitutional Convention \(August 30, 1787\)](#) Discussion and passage of the "Full Faith and Credit" Clause at the Convention.
  
- 2) [William Blount to John Gray Blount \(July 19, 1787\)](#) A North Carolina delegates reflects on the proposed Constitution. His unease regarding state cooperation with one another makes section 1 all the more important. "I still think we shall ultimately end not many Years just be seperate [sic] and distinct Governments perfectly independent of each other." For the Constitution to be effective, states had to give one another "Full Faith and Credit"

3) [Notes for a Speech by John Dickinson \(June 30, 1787\)](#) Dickinson notes the importance of preserving state sovereignties, especially from the perspective of small states. He argues that the only way to preserve the union is to protect minority state interests. He writes, “Let not gentlemen think so meanly of the smaller states as to believe they will be contented while a beautiful sign of Equality is held out with one Hand but the substance taken away with the other.”

## Article IV Section 2

**Background:** Section 2 further reinforces the equality amongst states, protecting the citizens of each state from unjust treatment when they travel to other states and ensuring that when someone commits a crime in a certain state, they are held accountable in that state.

The Fugitive Slave Clause of Section 2 dictated that states had to respect the claims of slaveowners to reclaim slaves who had fled to another state. However, states that disallowed slavery found a loophole in the “delivered up” wording of the clause, something that generated much resentment in the years leading up to the Civil War. Today, this clause is no longer in use as the United States prohibited slavery with the passage and ratification of the Thirteenth Amendment.

### **Text/Adapted Text:**

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

No state is allowed to discriminate against citizens of another state.

**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.**

Individuals that commit crimes and then flee the place in which they committed those crimes will be taken back to the state where their crimes took place for trial.

**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.**

Slaves that flee from their home states into another state in violation of their home state’s laws will be delivered back to the individuals who claim those slaves as property.

### **Primary Source Documents Relevant to Article Four, Section Two:**

- 1) [Fairfax County Resolves \(July 18, 1774\)](#) Written in response to the “Intolerable Acts,” the Fairfax County Resolves were grievances directed toward the Crown over constitutional issues, namely representation, trade, and an end to the slave trade. The document expressed a fear of the colonies becoming the equivalent of “slaves.” One can see this fear manifest itself in the “Privileges and Immunities Clause,” as it was a guarantor of citizens rights.
  
- 2) [James Madison's Notes on the Constitutional Convention \(August 28, 1787\)](#) Toward the end of the debates two delegates (Butler and Pinckney) suggest the extradition clause in Article Four be extended to servants and fugitive slaves. The motion was not included in the extradition clause, but it did necessitate the Fugitive Slave Clause.
  
- 3) [James Madison's Notes on the Constitutional Convention \(August 29, 1787\)](#) Passage of the Fugitive Slave Clause. Added, “If any person bound to service or labor in any of the United States shall escape into another State, he or she shall not be discharged from such service or labor in consequence of any regulations subsisting [sic] in the State to which they escape; but shall be delivered up to the person justly claiming their service or labor” to the extradition clause.”
  
- 4) [Federalist No. 42 \(January 22, 1788\)](#) In this edition of The Federalist, Madison wrote extensively on the power of the new Congress to regulate the relationships between individual states as well as the United States and foreign countries. Madison is particularly persuasive when noting that this power would be important to the new nation’s legitimacy.
  
- 2) [Federalist No. 80 \(June, 1788\)](#) Hamilton used this essay to argue for the greater jurisdiction given to the Constitution’s proposed Judicial Branch, noting that the new judiciary’s supremacy in all judicial matters was especially important in the case of disputes between states so that “the peace of the whole” would not be “left at the disposal of a part.”

## **Article IV Section 3**

**Background:** Article IV, Section 3 discusses the process of admitting new states to the Union and the importance of respecting each state’s territory.

### **Text/Adapted Text:**

**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.**

Congress has the power to admit new states to the Union, but no state may be formed within the territory of a pre-existing state, nor can a new state be formed by the joining together of existing states or parts of those states, without the consent of both those states and Congress.

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

Congress has the final word in regulating the territory and property of the United States, and nothing in the Constitution is to be understood as hostile to the claims of the United States or any particular state.

### **Primary Source Documents Relevant to Article Four, Section Three:**

1) [Fairfax County Freeholders' Address and Instructions to their General Assembly Delegates \(May 30, 1783\)](#) Directions given to Virginia delegates attending the Articles of Confederation Congress, the document displays the insistence of the states to retain their sovereignty. The directions include, "We desire and instruct you strenuously to oppose all encroachments of the American Congress upon the sovereignty and jurisdiction of the separate States; and every assumption of power, not expressly vested in them, by the Articles of Confederation." Requiring the states' consent to create a new state reinforces this idea of state sovereignty.

## **Article IV Section 4**

**Background:** This section guarantees to every state a republican form of government (where the people elect representatives to govern on their behalf). The Federal Government will protect each state against invasion; and, when a state requests it, from domestic upheaval and violence.

### **Text/Adapted Text:**

**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.**

All states are guaranteed a republican form of government, and in case of invasion or rioting, the Federal Government will intervene to protect the states.

**Primary Source Documents Relevant to Article Four, Section Four:**

- 1) [Foreign Spectator \(October 2, 1787\)](#) Foreign-born citizen's perspective on the necessity of a strong Federal Government. Article Four Section Four is yet another affirmation of the relative power of the new government created by the Constitution.
  
- 2) [An Old Whig IV \(October 27, 1787\)](#) Anti-Federalist tract published in Philadelphia, where the author comes to the conclusion that Federalists are fear-mongering to secure the passage of the Constitution. The text of Section 4, "to protect them against invasion" and "against domestic violence" can be seen as a passage meant to revive peoples' fear of rebellion and the potential for tyranny.
  
- 3) [James Madison's Notes of the Constitutional Convention \(July 18, 1787\)](#) Madison's detailing debate over the republican guarantee. The delegates debated what role the Federal Government might play in suppressing rebellions and how far it might go in preventing a particular state from adopting a "bad" constitution.

## Article V

**Background:** Article V of the Constitution discusses the ways in which the Constitution can be amended, or changed. The Drafters understood that the Constitution was far from perfect and that the passage of time would make some changes to the text necessary in order to enhance its protection of the people's rights. There are two ways to propose amendments to the Constitution: by a two-thirds vote in both houses of Congress, or by the request of two-thirds of the state legislatures. Regardless of the way in which the amendment was proposed, it must be approved by three-fourths of either all state legislatures, or special state conventions to become official. Thus, the amendment process is lengthy; it makes sure that any changes to the Constitution are made as deliberately and methodically as possible. To date, the Constitution has only been amended 27 times since its adoption in 1787.

### **Text/Adapted Text:**

**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.**

Amendments to the Constitution may only be proposed in one of two ways: when either two-thirds of both houses agree that is necessary, or legislatures from two thirds of the states call for a convention to propose amendments. These proposed amendments are ratified as Amendments to the Constitution when either three-fourths of all state legislatures or conventions in three-fourths of the states approve the proposed amendments. However, no amendment can be made to the clauses of Article I, Section Nine that address the slave trade (before 1808) or taxation. Also, an amendment cannot deprive a state of its equal amount of representatives in the Senate without its consent.

### **Primary Source Documents Relevant to Article Five:**

- 1) [James Madison to Thomas Jefferson \(October 24, 1787\)](#) Madison’s letter informing Thomas Jefferson, who did not attend the Convention, of its outcome. Madison details the intransigence of the Southern States over the issue of slavery, including the restriction on the slave trade. He writes, “The result is seen in the Constitution. S. Carolina & Georgia were inflexible on the point of the slaves.”
  
- 2) [James Madison's Notes of the Constitutional Convention \(September 10, 1787\)](#) Madison’s notes regarding debate over the slave trade and the amendment process in general.
  
- 3) [Notes on Debates by Robert Yates \(June 5, 1787\)](#) Yates’ notes at the convention detail the discussion over the amendment process. What follows is part of the debate: “Mr. King supposes, that as the people have tacitly agreed to a Federal Government, that therefore the legislature in every state have a right to confirm any alterations or amendments in it—a convention in each state to approve of a new government he supposes however the most eligible. Mr. Wilson is of opinion, that the people by a convention are the only power that can ratify the proposed system of the new government. It is possible that not all the states, nay, that not even a majority, will immediately come into the measure; but such as do ratify it will be immediately bound by it, and others as they may from time to time accede to it.”

## Article VI

**Background:** Article VI made the new Constitution official and settled any remaining debate over the balance of power between the states and the Federal Government. It also sets out that the Federal Government will assume all debts incurred under the Articles of Confederation.

The second clause of Article VI, also known as the “Supremacy Clause,” firmly established the Constitution as the law of the land by explicitly stating that state laws were inferior to Federal law unless prohibited by the Constitution. If there was a dispute between Federal law and state laws, the Constitution mandated that Federal law had to be enforced over the law of the states.

Article Six concludes by mandating that all members of Federal and State legislatures, the officers of the executives, and all judges must swear to support the Constitution. Additionally, no one may be kept from holding office because of their religious beliefs; this practice had occurred in Great Britain, and the Drafters were firmly against it taking place under the new Constitution. As President Washington would later write in a letter to a Jewish Congregation, “To bigotry no sanction, persecution no assistance.”

### **Text/Adapted Text:**

**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.**

Debts contracted prior to the adoption of the Constitution remain valid, as they were under the Articles of Confederation.

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

The Constitution, any Federal laws or actions resulting from the Constitution, and all treaties made through its power are the highest authority in the United States. All Judges, in every State, are bound to follow the Constitution, even if there is a state law that says differently.

**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.**

All Federal officials must take an oath to protect and serve the Constitution but no one's eligibility to hold their office will be determined by their religious beliefs.

### **Primary Source Documents Relevant to Article Six:**

1) [James Wilson's Notes of the Pennsylvania Ratification Convention \(November 28, 1787\)](#)

Wilson's notes describing debate during the ratification convention that centered on the fear of a strong Federal Government. Delegates feared the supremacy clause in Article Six would destroy the autonomy of state governments.

2) [A Friend of Society and Liberty \(July 23, 1788\)](#) Federalist tract written during the ratification debates extolling the virtues of a prohibition on religious tests. The author writes, "But our new federal constitution admits all, whether protestant, or catholic, or presbyterian, or episcopalian, &c. for it expressly says there shall be no religious test. Blessed circumstance, for which above all others the favored people of these states should ever raise their grateful voices in praise and thanksgiving to the author of every good and perfect gift. The federal connexion, established on these liberal and generous principles, will lead to a sort of federal union among the various churches which it has pleased God to raise up in the world."

3) [A Federal Republican: A Review of the Constitution \(November 28, 1787\)](#) Defense of the Constitution, especially governmental powers, written during the ratification debates. The author writes, "In such circumstances it was thought proper to collect the patriotic wisdom of the States for the purpose of amending the articles of confederation, which were found to be inadequate to the security of national prosperity and happiness; and of making such additions to supreme power, as our situation testified, were wanted. Necessity, therefore, gave birth to the Convention, and the glaring defects of the late system confederation, were the objects of its amendment."

## Article VII

**Background:** The final article of the Constitution, Article VII, discusses the procedure for ratifying, or approving, the Constitution.

In order for the new government to be effective and lasting, the Framers knew that they needed the people's approval. This is why the Drafters set up a system of state constitutional conventions, where the people in each state could debate and discuss the new Constitution. Some states easily ratified the Constitution, while others struggled to do so; the process lasted three years, with Rhode Island being the last state to ratify in 1790.

There were two camps in the ratification debates – the Federalists, who supported the Constitution, and the Anti-Federalists, who had concerns about the new Constitution and did not support its ratification. The debate revolved around whether or not the Constitution would protect individual rights and state sovereignty (independent authority). The Anti-Federalists saw the Constitution as oppressive of people's rights because it did not have enough obvious protection of individual freedoms, and they believed that the proposed Federal Government would be too powerful. The Federalists defended the Constitution by arguing that the Separation of Powers used to construct the new government would prevent the Federal Government from becoming tyrannical, and that although the document did not explicitly list the people's rights, the Constitution nevertheless strongly protected them.

Thus, the ratification debates and the discussions that went on in towns during this time provided an opportunity for American citizens to learn about their new government and become empowered in their new roles as citizens. Both sides became essential to the new government as they helped to keep our new government from becoming unbalanced.

In sharing their fears about the new government, Anti-Federalists laid the foundation for the Bill of Rights, which was added to the Constitution in 1791.

Note: Additional resources about the ratification debates, including a timeline of each state's ratification of the document, may be found [here](#).

### **Text/Adapted Text:**

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 approval of the Constitution by 9 states (or two-thirds of the total of 13 states in 1787) are needed to Ratify the Constitution (approve the Constitution and make it the law of the land).

# Amendments to the Constitution

**Background:** The Drafters of the Constitution understood that the new government would require changes and provided a way to do this in Article V, which details the amendment process. The first ten Amendments to the Constitution, known as the Bill of Rights, helped to lessen the fears brought up during the Ratification debates that the new Constitution did not do enough to protect individual rights.

Adopted in 1791, the Bill of Rights was intended to define people's rights and were a response to Anti-Federalist concerns during the ratification process. Many people feared that the new government would be too powerful and become too much like the British government by taking individuals' rights away. Thus, the Bill of Rights was created to ease people's fears. The next 17 Amendments, passed over 200 years, can be seen as continuing efforts to make the American government more effective and responsive to the people. These Amendments address a variety of subjects, ranging from ending slavery to setting the voting age.

## The Bill of Rights: Amendments 1-10

### Amendment I (1791)

**Background:** The First Amendment to the Constitution directly addressed the all-important issue of personal expressive freedom.

As former colonists of Great Britain, Americans were very familiar with the unjust restrictions placed on the people's right to choose their religious beliefs, speak their minds and have a free press. In Great Britain, where there was an official religion for the whole country, there was widespread legal discrimination, or unfair treatment, towards people of different religious beliefs. Individuals could be tried in court for speaking against the King, and the press had to obtain government permission to publish its work.

Thus, Congress wrote the First Amendment in such a way that these essential rights would be absolutely protected. The First Amendment limits the government from making any law that takes away from the people's right to free speech, the freedom of the press, or establishes a mandatory state religion. The Amendment also protects the people's right to bring forward issues with the government's performance ("petitioning the government").

#### **Text/Adapted Text:**

**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.**

Congress cannot make laws that restrict the peoples' right to practice a chosen religion and Congress cannot establish a national religion. Congress cannot pass laws restricting the right of people to freely express themselves, or the right of the press to publish information. Also, the people have the right to assemble in public areas and ask the government to address to address concerns the people have about their government.

## **Primary Source Documents Relevant to Amendment I:**

- 1) [English Bill of Rights \(February 13, 1689\)](#) The American Bill of Rights echoes its British predecessor. The following from the British Bill of Rights is an example: "That it is the right of the subjects to petition the king, and all commitments and prosecutions for such petitioning are illegal."
  
- 2) [Federalist 84](#) Hamilton's argument against a Bill of Rights. He writes, "On the subject of the liberty of the press, as much has been said, I cannot forbear adding a remark or two: In the first place, I observe that there is not a syllable concerning it in the constitution of this state, and in the next, I contend that whatever has been said about it in that of any other state, amounts to nothing. What signifies a declaration that "the liberty of the press shall be inviolably preserved?" What is the liberty of the press? Who can give it any definition which would not leave the utmost latitude for evasion? I hold it to be impracticable; and from this, I infer, that its security, whatever fine declarations may be inserted in any constitution respecting it, must altogether depend on public opinion, and on the general spirit of the people and of the government. And here, after all, as intimated upon another occasion, must we seek for the only solid basis of all our rights."
  
- 3) [Constitution of Maryland \(November 11, 1776\)](#) The First Amendment echoes the religious freedom guaranteed in many of the states. Maryland's guarantee of religious freedom was as follows: "XXXIII. That, as it is the duty of every man to worship God in such manner as he thinks most acceptable to him; all persons, professing the Christian religion, are equally entitled to protection in their religious liberty; wherefore no person ought by any law to be molested in his person or estate on account of his religious persuasion or profession, or for his religious practice; unless, under colour of religion, any man shall disturb the good order, peace or safety of the State, or shall infringe the laws of morality, or injure others, in their natural, civil, or religious rights..." the subjects to petition the king, and all commitments and prosecutions for such petitioning are illegal;"
  
- 4) [Final Draft of the Virginia Declaration of Rights \(June 12, 1776\)](#) The Bill of Rights was very closely modeled after this 1776 document. For example, the Bill of Rights and the Virginia Declaration of Rights shared a very similar structure, with the rights of the people of the state of Virginia represented in a declaratory list. Also, both documents argue their respective points from very similar perspectives: government must be limited in order to protect the people's freedom. Finally, the Declaration of Rights lists many of the freedoms that would later be included in the Bill of Rights, notably the First Amendment rights of freedom of religion and a free press.

## Amendment II (1791)

**Background:** The Drafters of the Constitution believed in the right of individuals to own weapons, and they were influenced in this belief by British law, which legally protected the people's right to bear arms.

British law included the right of citizens to own weapons for two reasons. First, the British people throughout their history were fearful of the King becoming too powerful, and so it was important that citizens had the right to keep weapons in case of the King gaining too much power. Second, the people were afraid of large, permanent armies, which could also take on too much power, so the right to bear arms was important because the people wanted to be able to defend themselves.

The Drafters felt that it was important to protect this right through the Constitution, and so they wrote the Second Amendment for similar reasons: to enable the people to protect themselves against the possibility of the central government becoming too powerful, and to allow Americans to defend themselves as part of individual as part of state militias.

However, the meaning of the Amendment has been the subject of debate throughout our nation's history, and this debate has mostly been focused on gun ownership. The debate has been between people following two opposing viewpoints: those who argue that the Second Amendment defends individuals' rights to own guns for their personal protection, and those who believe that the Amendment protects gun ownership as part of a militia. The issue was at least partially addressed in the Supreme Court's decision in the case *District of Columbia v. Heller* (2008), which said that the Second Amendment protects citizens' rights to own firearms for self-defense. However, the debate is still ongoing.

Reference:

Rudolf B. Lamy, "The Influence of History on a Plain Text Reading of the Second Amendment to the Constitution of the United States," 49 *Am. J. Legal Hist.* 217 2007217-230.

### **Text/Adapted Text:**

**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.**

Militias are important to the protection of a free state; the people have a right to keep and use firearms.

### **Primary Source Documents Relevant to Amendment II:**

- 1) [Federalist #4](#) John Jay's argument in support of a strong union in relation to national defense, and by extension the necessity of militias.

2) [Final Draft of the Virginia Declaration of Rights \(June 12, 1776\)](#) Primarily the work of George Mason, the Declaration contains a passage that resembles the Second Amendment. It follows, “13. That a well-regulated Militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free State; that Standing Armies, in time of peace, should be avoided as dangerous to liberty; and that, in all cases, the military should be under strict subordination to, and governed by, the civil power.”

3) [George Mason to John Lamb \(June 9, 1788\)](#) Mason’s idea for a Bill of Rights (12 years after the Virginia Bill of Rights). One of the provisions was, “17. That the People have a Right to keep and to bear Arms; that a well regulated Militia, composed of the Body of the People, trained to arms, is the proper, natural, and safe Defence of a free State; that Standing Armies in Time of Peace are dangerous to Liberty, and therefore ought to be avoided as far as the Circumstances and Protection of the Community will admit; and that in all Cases, the Military should be under strict Subordination to, and governed by the Civil Power.”

## Amendment III (1791)

**Background:** The Third Amendment directly addresses an important episode from the Revolutionary War: one of the central complaints that the Colonies held against the King was that British soldiers were legally permitted to stay in American homes without the consent of the owner. Thus, the Third Amendment was a protection against that occurrence, both in peacetime and during war.

### **Text/Adapted Text:**

**No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.**

Soldiers cannot be housed in private individuals’ homes during peace time, nor during wartime, unless it is prescribed by law.

### **Primary Source Documents Relevant to Amendment III:**

1) [Constitution of Massachusetts \(October 25, 1780\)](#) Influence of state constitutions can be seen as a Massachusetts provision is echoed in the Bill of Rights. “Art. XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not be made but by the civil magistrate, in a manner ordained by the legislature.”

2) [John McKesson's Notes of the New York Ratification Convention \(July 10, 1788\)](#) A Resolution of New York delegates included a list of essential amendments needed to assure passage of the larger document. The soldier quartering provision was included as one of the amendments.

## Amendment IV (1791)

### Text/Adapted Text:

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

People have a right to maintain their persons and property without fear of unreasonable searches and confiscation. No warrant to search and confiscate property should be issued from a judge, unless it is based on probably cause (include parenthetical with short explanation), and supported by the Oath or affirmation of a government official, and very specifically describe the place to be searched or the person or property to be confiscated.

### Primary Source Documents Relevant to Amendment IV:

- 1) [Magna Carta \(1215\)](#) One of the first declarations of the rights of nobility in relation to the crown. Many rights delineated dealt with the security of the person. “(9) Neither we nor our officials will seize any land or rent in payment of a debt, so long as the debtor has movable goods sufficient to discharge the debt. A debtor's sureties shall not be distrained upon so long as the debtor himself can discharge his debt. If, for lack of means, the debtor is unable to discharge his debt, his sureties shall be answerable for it. If they so desire, they may have the debtor's lands and rents until they have received satisfaction for the debt that they paid for him, unless the debtor can show that he has settled his obligations to them.”
  
- 2) [A Son of Liberty \(August 1789\)](#) A satirical critique of the Constitution, this document displays the distrust that lingered even after a Bill of Rights was proposed. The author writes, “4th. Men of all ranks and conditions, subject to have their houses searched by officers, acting under the sanction of general warrants, their private papers seized, and themselves dragged to prison, under various pretences, whenever the fear of their lordly masters shall suggest, that they are plotting mischief against their arbitrary conduct.”

## Amendment V (1791)

**Background:** The Fifth Amendment prevents government corruption of legal proceedings. It dictates that when a serious crime has been committed, the person accused of the crime must be indicted by a Grand Jury of their peers in order to be tried. Additionally, no one may be tried twice for the same crime, which is known as Double Jeopardy. The Fifth Amendment also states that no one may be compelled to incriminate themselves in a legal case by testifying against themselves, nor can anyone be denied due process, or fair treatment, under the law. Lastly, private property May only be taken by the government for public use if the landowner is fairly compensated.

**Text/Adapted Text:**

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

No person accused of a crime in which they may receive the death penalty can be held unless they are formally accused by a body of citizens known as a Grand Jury. There are exceptions, such as when the accused is a member of the military or the state militia on duty or providing public safety. Also, no person can be charged of the same crime twice (known as Double Jeopardy). No person can be forced to testify against him or herself during a trial. The government cannot take away a person's life, liberty or property without due process-the set of legal rights owed to an individual accused of a crime. Finally, private property cannot be taken for public use by the government unless the government compensates the landowner for the

**Primary Source Documents Relevant to Amendment V:**

1) [A Son of Liberty \(August 11, 1789\)](#) A New York writer lamenting the passage of the Constitution, and perhaps angling for a Bill of Rights. The author lists the many ills that will plague the nation if the Constitution is not amended; among them: “3d. A suppression of trial by a jury of your peers, in all civil cases, and even in criminal cases, the loss of the trial in the vicinage, where the fact and the credibility of your witnesses are known, and where you can command their attendance without insupportable expence, or inconveniences.”

## **Amendment VI (1791)**

**Background:** The Sixth Amendment deals with rights held by people on trial. Those in court have the right to: a speedy and public trial, have witnesses testify against them in court in front of the judge and jury, have witnesses speak on their behalf, and have a lawyer to represent them in court. The Sixth Amendment is yet another means used by the Drafters to prevent the court system abusing its power, as it had in Britain.

**Text/Adapted Text:**

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

People accused of crimes have a right to a public trial by a fair jury heard in a reasonable amount of time in the location where the alleged crime was committed. The accused deserves to be informed of the crime they are accused of and is allowed to face their accuser and ask witnesses to speak in support of them. The accused are additionally entitled to the advice of a lawyer who will assist with his or her defense.

### **Primary Source Documents Relevant to Amendment VI:**

- 1) [John McKesson's Notes of the New York Ratification Convention \(July 7, 1788\)](#) McKesson's notes detail the moment at which the convention decided to add a list of rights as a precondition for ratification for the document. A few of the rights related to civilian trials are as followed and are echoed in amendments 5-7: "to be put to his Trial unless on an Indictment by a grand Jury & that in all capital or criminal prosecutions the accused hath a Right to demand the Cause and Nature of his Accusation—to be confronted with his Accusers and Witnesses—to produce Testimony and have Council in his Defence & to a fair public and speedy Trial by an impartial Jury of the County in which the Crime was committed without whose unanimous Consent he ought not to be found guilty."
- 2) [Amendments Proposed by the Virginia Convention \(June 27, 1789\)](#) The Virginia Convention's proposed amendments look strikingly similar to both the Virginia Declaration of Rights as well as the Bill of Rights; they mirror these two other documents in their structure and content. However, these proposed Amendments pay special attention to the rights discussed in Amendment VI, especially the right of the accused in BOTH civil and criminal cases to have a jury trial. The proposed amendments also strongly address the importance of the speed of the trial and that the right of the people to seek justice through the courts must not be violated.
- 3) [James Madison to Edmund Pendleton \(September 23, 1789\)](#) Madison's letter to Pendleton addressed the difficulty that Madison faced in persuading Congress to pass the several amendment proposed before them. Specifically, Madison pointed out that the inclusion of juries in trials that is called for in Amendment VI was controversial because the demand that the jury be drawn from the same area rather than from across the various states was not in keeping with the states' practices.

## **Amendment VII (1791)**

**Background:** The Seventh Amendment guarantees citizens the right to a trial by jury (a group of randomly selected citizens who pass judgment on a case) in most civil cases and prevents cases from being unfairly re-examined once a decision has always been made. The common law referred to in the Amendment is the precedent, or examples, created by previous legal decisions. In this case, common law (originating from England) suggested that a jury was a safeguard against a tyrannical judge.

**Text/Adapted Text:**

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

For non-criminal cases, if the case involves more than \$20, the person is entitled to a trial by jury. No fact decided by a jury can be re-examined in another court in the United States.

**Primary Source Documents Relevant to Amendment VII:**

- 1) [Cincinnatus II: To James Wilson](#) Pennsylvania Anti-Federalist document written soon after the passage of the Constitution (but before the proposal for a Bill of Rights), that discusses the lack of protection for a jury trial in the document itself.

## **Amendment VIII (1791)**

**Background:** Like the English Bill of Rights of 1689, the Eighth Amendment ensures that those accused of a crime have: reasonable bail (money needed for a person to get out of jail until the trial), do not have to pay fines that are too expensive, and cannot be subjected to punishments deemed unfair.

**Text/Adapted Text:**

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

Those accused of a crime should not be made to pay too much money as bail (money paid for a temporary release from jail) or suffer punishment that is too extreme.

**Primary Source Documents Relevant to Amendment VIII:**

- 1) [English Bill of Rights \(1689\)](#) The English Bill of Rights served as a model for our own Bill of Rights, and importantly contained a provision forbidding cruel and unusual punishment. Its provision forbidding cruel and unusual punishment is echoed word for word in the Eighth Amendment.

## Amendment IX (1791):

### Text/Adapted Text:

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

That certain rights are listed in the Constitution and others not, should not be interpreted as denying that the people hold other rights not described in the Constitution.

### Primary Source Documents Relevant to Amendment IX:

1) [Federalist #51](#) Madison's discussion of the separation of powers and the importance of preserving individual liberty, a primary concern of the Ninth Amendment. He writes, "In the compound republic of America, the power surrendered by the people, is first divided between two distinct governments, and then the portion allotted to each, subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will controul each other; at the same time that each will be controuled by itself."

## Amendment X (1791)

### Text/Adapted Text:

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

All powers that are not given to the United States by this Constitution nor prohibited to the states are therefore reserved either to the states or to the people.

### Primary Source Documents Relevant to Amendment X:

1) [Federalist #17](#) One of Hamilton's Federalist Papers that serves as a rebuttal to the charge that the Constitution destroys state sovereignty. He writes, "The proof of this proposition turns upon the greater degree of influence, which the State governments, if they administer their affairs with uprightness and prudence, will generally possess over the people; a circumstance which at the same time teaches us, that there is an inherent and intrinsic weakness in all Foederal Constitutions; and that too much pains cannot be taken in their organization, to give them all the force which is compatible with the principles of liberty."

## Amendment XI (1798)

**Background:** The Eleventh Amendment prevents federal courts from hearing cases in which a state is sued by a citizen from another state or a foreign country. It was added to the Constitution after the unpopular 1793 Supreme Court ruling in the case of Chisholm v. Georgia. In this case, the Supreme Court said that Federal courts had the power to hear legal cases that were started by citizens against the states and that the states were not immune to these cases.

Not agreeing with the infringement of the federal courts into state issues, states-rights supporters urged the adoption of the Eleventh Amendment.

By adding the Eleventh Amendment into the Constitution, the Court protected what is known as the "sovereign immunity" of the states by prohibiting federal courts from hearing cases where a citizen of another state or the subject of a foreign state sues a state.

**Text/Adapted 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.**

Federal courts cannot hear cases in which a state is sued by a citizen of another state or foreign nation.

## **Amendment XII (1804)**

**Background:** Before the Twelfth Amendment, candidates for President ran independent of political parties. This meant that multiple candidates from the same party could run for office. In selecting the President, members of the Electoral College would choose two candidates, one for President and one for Vice President. However, the system could at times be chaotic because the electors would vote according to their own states' laws. Also, the people were not very involved in the process because the electors did not have to pay attention to the popular vote.

The system was further complicated by the fact that it was very difficult for the electors to communicate with each other, meaning that they often were not able to coordinate their votes for Vice President. In the election of 1796, Thomas Jefferson and John Adams both received the same amount of electoral votes, and Thomas Pinckney, who was going to be Vice President, and of the same party as Adams, came in third in the voting. This made for a very confusing situation, because the Constitution dictated that the candidates that won the top two electoral vote totals would be President and Vice President.

The result of this election as well as another difficult race in 1800 led to the Twelfth Amendment.

**Text/Adapted 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.

The members of the Electoral College will meet in their respective states and secretly vote, in writing, for President and Vice-President, one of whom at least must not be from the same state as the Electors. The Electors will name their choices for President and Vice-President on separate ballots (sheets of paper for voting), from which they will make a list of all of the candidates for both positions, and how many of the Electors' votes each candidate received. The Electors will then send these lists to the President of the Senate in the nation's capital; the President of the Senate will then count these votes in front of Congress.

The candidate with the greatest amount of votes for President will be named President; if there is no majority, the House of Representatives will vote for the President by choosing from the candidates with the three highest vote totals. Each state in the House will have one vote in this election, and there must be a quorum of the states present; the candidate that wins the majority of the states' votes becomes President. If the House cannot choose President before the fourth day of March following the election, the Vice President becomes President.

The candidate with the greatest amount of votes for Vice-President will be named Vice-President. If no candidate wins a majority, then the Senate chooses the Vice President in an election between the two-highest vote-getting candidates. The Senate must have a quorum of its members for this process (which will consist of 2/3 of the Senate in this case), and the winner of this election must have a majority of the votes. No person constitutionally ineligible to hold the office of President may be a candidate for the office of Vice-President.

## **Amendment XIII (1865)**

**Background:** Following the American Civil War, the Thirteenth Amendment was ratified, ending the practice of slavery.

The Thirteenth Amendment also includes the first use by Congress of an enforcement clause, which would also be included in later Amendments. Enforcement clauses were added to allow Congress to pass additional legislation needed to uphold the newly ratified Amendment. In the case of the Thirteenth Amendment, Congress could pass legislation that ensured that the practice of slavery was fully and officially out of use.

### **Text/Adapted Text:**

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

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

1. In the United States or any place where the United States has lawful power, it is illegal to hold someone against their will unless it is as punishment for a crime committed and such a person was convicted according to the law.

2. Congress has the power to enforce this Amendment through further legislation.

## **Amendment XIV (1868)**

**Background:** In a now infamous Supreme Court Case, *Dred Scott v. Sanford* (1857), the Court declared that African Americans were not citizens. Following the Civil War, the Fourteenth Amendment (One of 3 “Reconstruction Amendments”), declared that every person born or naturalized in the United States was a citizen. Additionally, the Amendment dictated that all citizens are entitled to “equal protection under the law” (a state cannot apply a law to some and not others), and that no state may take away any right owed to all citizens. Finally, no state is allowed to deprive citizens of life, liberty, or property without “due process of law,” the full and fair treatment under the law to which all citizens are entitled.

Section 2 of the Fourteenth Amendment does away with the Three-Fifths Clause that counted slaves as three-fifths of a person with regards to representation in Congress and taxes. It also mandates that any state that denies a citizen the right to vote would be punished through the reduction of that state’s representation in Congress. Although the Amendment says citizens must be 21 to vote, the Twenty-Sixth Amendment reduced the voting-age to 18.

Section 3 of this amendment was only applicable to people at the time it was passed, as it prevents former Confederate officials from holding a federal office unless approved by  $\frac{2}{3}$  vote in each house of Congress.

Additionally, the Amendment states that all of the Federal Government’s debt from the Civil War would be honored, but the United States is not liable for debts caused by the Confederate government.

The Enforcement Clause allows it to enforce the Fourteenth Amendment, which includes laws which abridge the privileges or immunities of citizens, or otherwise deny to a person due process or equal protection of the laws. The Voting Rights Act of 1965 is one such example.

### **Text/Adapted Text:**

**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.**

People born in the United States or becomes citizens of the United States (by the process of naturalization) are United States citizens and citizens of the state they live in. All US citizens must be protected by, must follow, and must be held accountable for all the same laws of the Federal Government and their state. Also, all citizens deserve to be fairly treated under the law, even when they have broken the law.

**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.**

Every citizen of the United States must be fully included when deciding how many representatives each state should have. Also all citizens are entitled to the right to vote in Federal elections, and if any state attempts to take away these rights, it will be punished by having its representation in Congress reduced.

**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.**

No person who was a former Confederate official (against the Union during the Civil War) is allowed to serve in Congress unless Congress votes, with a 2/3 majority in each house, to allow them in.

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

Congress has the power to enforce this Amendment through additional laws.

**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.**

The money that the United States spent during the Civil War to fight against the Confederacy will be paid back. However, the debts of the Confederacy are now void.

## **Amendment XV (1870)**

**Background:** The Fifteenth Amendment prevents any citizen of the United States from being denied the right to vote based upon their race. Although the previous two Reconstruction Amendments had in turn ended slavery and guaranteed civil rights to all citizens, recently freed slaves were still being kept from exercising their right to vote in certain areas of the country. The Fifteenth Amendment stopped this by forbidding states from denying any citizen the right to vote.

### **Text/Adapted Text:**

**Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude. Section 2. The Congress shall have power to enforce this article by appropriate legislation.**

1. The right of citizens to vote may not be restricted or taken away on the basis of race, color, or previous status as a Slave.
2. Congress has the power to enforce this Amendment with additional laws.

## **Amendment XVI (1913)**

**Background:** Prior to the adoption of the Sixteenth Amendment, the government received most of its revenue through taxes placed on goods moving in and out of the country; these taxes were legal under Article I, Sections 2, 8 and 9, which enumerated Congress' power to indirectly tax. However, the government had in certain cases also charged a direct tax on individuals' income (pay), such as during the Civil War, when the government needed the extra money to help pay for its war debt. Over time, tariffs became unpopular and inefficient, and a political movement to supporting a permanent, direct income tax resulted in the adoption of the Sixteenth Amendment in 1913.

### **Text/Adapted 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.**

Congress can create and collect income taxes from citizens regardless of what State the citizen is from.

## **Amendment XVII (1913)**

**Background:** The Seventeenth Amendment addressed the section of Article I providing for Senators to be selected by state legislatures. Now, Senators would be directly elected by the people. Additionally, Senators would serve for six-year terms. Finally, following the passage of Seventeenth Amendment, the executives of each state were empowered to hold special elections to fill any vacancies in the state's Senate seats.

### **Text/Adapted 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.**

The Senate will be made up of Senators and each State is allowed to elect 2 Senators. Senators will be elected by the people and can serve for 6 years. In the Senate, each Senator will have 1 vote. Whenever a Senator leaves or quits his job, the Senator's state must call for an election to fill the position. The executive of the State is allowed to choose a temporary senator until the people can vote for the new Senator. Finally, the Amendment will not affect the election of a Senatorial candidate or the term of any current Senator until it is adopted as part of the Constitution.

## **Amendment XVIII (1919)**

**Background:** The Eighteenth Amendment banned the production and sale of alcohol, beginning an era known as Prohibition. Since the states also passed their own laws to limit alcohol, the passage of this Amendment by the Federal Government effectively banned anyone from drinking alcohol. Additionally, the Amendment is also notable because it required the ratification of its text by a three-fourths majority of the state legislatures in order to take effect. Ratified in 1919, the Amendment was short lived: the Twenty-First Amendment would repeal prohibition 14 years later.

**Text/Adapted Text:**

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

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

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

1. In one year from the ratification of this Amendment, the manufacture, sale, or transportation of alcohol within, the movement of alcohol into, or the sale of alcohol out from the United States and all territories subject to United States law is hereby prohibited.
2. Both Congress and the individual states have the power to enforce this Amendment through passing further laws.
3. This Amendment will not be considered part of the Constitution unless it has been ratified by the legislatures of the States as noted in Article V within seven years from the date that it has been submitted by Congress to the states for their approval.

## **Amendment XIX (1920)**

**Background:** Although the right to vote had been expanded broadly since the beginning of the country, at the opening of the twentieth century, female citizens were still denied this right, despite a strong protest movement to reform this practice. The Nineteenth Amendment prohibits both the Federal and state governments from denying the right to vote on account of sex.

**Text/Adapted 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.**

The right of citizens to vote will not be taken away on the basis of their gender. Congress has the power to enforce this Amendment through passing additional laws.

## Amendment XX (1933)

**Background:** Before the Twentieth Amendment, the President was elected in November and sworn into office in March, leaving a four-month waiting period, and a long “lame-duck” session for the previous president. With this Amendment, the lame-duck period was significantly shortened by moving inauguration day from March to the end of January. The term of Congress was also changed so that it did not end on the same day as the President’s. Finally, the Amendment is also notable because like the Eighteenth Amendment, it required the ratification of its text by a three-fourths majority of the state legislatures in order to take effect.

### **Text/Adapted Text:**

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

The President’s and Vice President’s jobs end at noon on January 20th at the end of their term unless they are reelected. Senator’s and Representative’s jobs end at noon on January 3rd at the end of their term unless they are also reelected.

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

Congress must meet at least once a year. They should meet on the 3rd day of January unless they agree to meet on a different date.

**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.**

If the newly elected President (President Elect) dies before he can be inaugurated as President of the United States, the newly elected Vice President (Vice President Election) will become President. Also, if the newly elected President cannot meet the qualifications of his job, the Vice President becomes President. But if neither the elected President nor Vice President are qualified, Congress decides who is to serve until the election is determined.

**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.**

If the newly elected President dies and the Vice President does not become President, the House is allowed to choose the President, and if the newly elected Vice President dies, the Senate chooses the Vice President.

**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.**

Sections 1 and 2 will take effect on October 15th of the year following the ratification of this Amendment.

This Amendment will not take effect unless it has been ratified by three-fourths of the states' legislatures within seven years of the date of its submission.

## **Amendment XXI (1933)**

**Background:** The Twenty-First Amendment repealed Prohibition, the ban on alcoholic beverages also known as the Eighteenth Amendment. However, the Amendment did not disturb state law that prevented the delivery or consumption of alcoholic beverages.

### **Text/Adapted Text:**

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

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

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

The 18th amendment, which banned alcohol is repealed. However, any state laws that still prohibit alcohol are valid. Finally, this Amendment will not take effect unless it has been ratified by three-fourths of the states' legislatures within seven years of the date of its submission.

### **Amendment XXII (1951)**

**Background:** Following Franklin Roosevelt's four consecutive terms as President—he died during his fourth—the Twenty-Second Amendment limited all future presidents to just two. Although Roosevelt serving four terms was legal because there was no law against a President serving more than two terms at the time, the Twenty-Second Amendment took the original precedent set by George Washington of presidents only serving two terms and made that the constitutional standard.

#### **Text/Adapted Text:**

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

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

Presidents cannot serve more than two terms in office. This includes anyone who is doing the job of the President even if they were not technically President (such as the Vice President if the President was seriously ill, died, or resigned).

### **Amendment XXIII (1960)**

**Background:** Originally, the District of Columbia was considered a Federal territory, and not being a state, was not entitled to representatives in either the Senate or the House of Representatives, nor was it given any electors in the Electoral College since these are also given to States. However, a long standing movement protesting this status for the District gradually gained traction, and as a result of this long fight, the Twenty-Third Amendment was adopted in 1960.

**Text/Adapted Text:**

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

**A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, 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.**

1. Congress is allowed to appoint electors to the District of Columbia so that citizens living in Washington, DC can vote in Presidential Elections, just like any citizens of other state. Congress has the power to enforce this law through passing additional legislation.
2. This Amendment will not take effect unless it has been ratified by three-fourths of the states' legislatures within seven years of the date of its submission.

## **Amendment XXIV (1964)**

**Background:** Following the adoption of the Reconstruction Amendments (Thirteen, Fourteen and Fifteen), southern state authorities continued to disenfranchise (take away the right to vote of) their black citizens, using a variety of questionably legal means to do so. Amendment XXIV addresses the most widely used method of disenfranchisement, the poll tax. By instituting a poll tax (a fee required to vote), Southern states were able to discriminate against Black voters since they knew that African Americans were economically worse-off than their white counterparts. In this way, Southern states were able to avoid directly violating the Fifteenth Amendment while in practice, the discrimination continued. Congress had tried to address the poll tax for years, but faced opposition from Southern representatives. With the rise of the Civil Rights movement in the 1960s, they had an opportunity to do so, passing Amendment XXIV in 1964.

**Text/Adapted Text:**

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

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

The right of a citizen to vote in a primary or other election cannot be denied for failing to pay any poll or other tax.

## **Amendment XXV (1967)**

**Background:** Although the Constitution addressed the issue of the circumstances under which a President would lose their power (removal from office, death, resignation or inability to fulfill his/her duties) in Article II, Section I, this arrangement was seen as too vague. Thus, in the early 1960s, several Senators collaborated on an Amendment that would clarify the issue and establish the follow contested points: who would succeed the President and under what circumstances, who would have the power to declare the President incapacitated, and how to fill a Vice Presidential vacancy before the next Presidential election. Historically, the fourth section, addressing what would happen if the Vice President and a majority of the President's Cabinet OR the majority of a similar body in Congress declare that the President is unable to fulfill his/her duty, is the only section of the Amendment that has not been used.

### **Text/Adapted Text:**

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

If the President dies or resigns, the Vice President of the United States will 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.**

If the Vice President leaves office for any reason, the President can nominate a new Vice President who will take office once confirmed by a majority of both the House and the Senate.

**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 them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President**

If and only if the President provides a written declaration that he/she is unable to do his/her job, then the Vice President takes over the President's responsibilities until the President tells Congress that he/she is well enough to resume his job.

**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.**

When and only when the Vice President and a majority of either the principal executive officers (the President's Cabinet) or of a similarly legally empowered group provided by Congress give the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to do his/her duty as President, the Vice President will immediately assume the office of the President.

Following this, if the President gives the President pro tempore of the Senate and the Speaker of the House of Representatives his/her written declaration that he/she is not suffering such an inability, he/she will resume the office of President, unless the Vice President and a majority of either the President's Cabinet or a similar body selected by Congress send in a written declaration affirming their argument that the President is unable to perform his/her duty as President. Congress is then tasked with deciding the issue; it must assemble within 48 hours if not already in session. If Congress has determined within 21 days of their receipt of the second written declaration from the Vice President that the President is unable to do his/her duty as President, the Vice President will remain President. Otherwise, the President will resume his/her office.

## Amendment XXVI (1971)

### Text/Adapted 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.**

The right of citizens who are 18 or older to vote cannot be denied on the basis of age. Congress is empowered to enforce this Amendment through passing additional laws.

## Amendment XXVII (1992)

### Text/Adapted Text:

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

If Congress decides to raise or lower its pay, the new salary will not go into effect until after the next election.