Constitutional Law

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Cases, Approaches, and Application

SECOND EDITION

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About This Book

Constitutional Law is far too large a topic to be comprehensively covered in a book that aspires to be a reasonable size. (Indeed, it's all too large a topic to be covered in one law school class: you will also encounter foundational constitutional law issues in many classes, including, but not only, Criminal Procedure, Administrative Law, and Property.) The challenge of learning such a sprawling topic — even the limited parts of it covered in a standard Constitutional Law class — is only increased by the demands placed on law students today to learn not just legal doctrine, but skills. Quite literally, students in a modern constitutional law class have to learn not just what constitutional law is, but also how to practice it effectively.

This book attempts to meet these challenges in several ways. First, it focuses on the core "constitutional law" that is normally taught in a constitutional law survey class in most American law schools: constitutional structure (separation of powers and federalism) and Fourteenth Amendment rights (including the related issues of Congress's enforcement power and "state action"). Other topics, such as constitutional criminal procedure, procedural due process, the Takings Clause, and the First Amendment, are normally covered in other classes. This book does not reproduce material that will be presented in books students will be asked to read (and purchase) for those classes.

Second, the content and structure of this book reflect its aim of teaching skills. A basic skill students need to learn is how to read a constitutional law opinion. In order to teach that skill, this book presents relatively fewer primary cases, but relatively longer excerpts of those cases. Those longer excerpts allow students to discern the structure of the justices' constitutional law argumentation, rather than simply providing isolated snippets that present the black-letter rule without adequate surrounding context. Cases and doctrinal progressions that aren't set forth in full-blown excerpts are presented in notes that provide the connective tissue between the primary cases.

Another basic skill is the use of precedent. This book is careful to retain excerpted cases' citations to cases previously presented in the book. The goal of including those citations is to allow students to refer back to those cited cases, and to reflect on how — and how well — the Court employs its own precedents.

The book's structure also reflects this focus on precedent, but also more generally on doctrinal approaches and methodologies. For example, after Chapter 1's examination of the judicial power, Chapter 2 considers other aspects of the separation

of national powers, rather than moving immediately to federalism, as many books do. This was not an arbitrary choice. Judicial power cases *are* separation of power cases; thus, Chapter 1's cases about the judicial power focus on the same concerns, adopt the same methodologies, and indeed, rely on the same cases, as Chapter 2's cases about the executive-congressional relationship. Grouping these cases together, as Part I does, allows students to find connections between different doctrines and between precedents that, at first blush, deal with different issues.

Other parts of the book reflect this same philosophy. For example, Part III's examination of modern substantive due process analysis is not organized by the various topics covered (*e.g.*, family structure, sexuality, and bodily autonomy). Instead, the cases are presented chronologically, thus allowing students to see how the Court at a given time understands and applies the due process precedents that came before.

Finally, the book's supplement aims to teach a skill that often goes unacknowledged in constitutional law books (and courses): the application of the constitutional law rules handed down by the Supreme Court. Often, books simply present the canonical Supreme Court cases on a given topic, and leave it at that. This approach often leaves students unsure what the rules announced in those cases really mean in practice. This result is unfortunate: most students' constitutional law practice will mainly consist of convincing lower courts how to apply Supreme Court caselaw.

This book's supplement acknowledges this reality by providing appellate caselaw — usually quite recent caselaw — applying those rules. That caselaw is presented in several forms: standard excerpts from opinions, notes, and, most frequently, problems based on cases. In addition to helping students learn how lower courts apply Supreme Court rules (and thus how to best frame legal arguments about such applications), these materials remind them that the constitutional "law" governing a particular case or entity emanates not just from the Supreme Court, but from the federal circuit or even the state courts where that case is filed or that entity is located. Of course, the supplement also plays the more traditional role of providing information about the Supreme Court's most recent cases.

A Note on Editing

This book aspires to be a helpful and easy-to-use learning tool. That philosophy informs the editing conventions it employs.

Helping students understand how the Court uses precedent is an important aim of this book. Thus, it retains most citations to cases that have already appeared in the book. Citations to other cases are also sometimes retained, especially when the context would make it awkward or confusing to delete them or when the case appears later in a related context.

When an opinion or a note cites a case that has already appeared in the book, a *supra*. cite is provided, but only the first time that opinion or note cites that earlier case. If the cited case has appeared as a full-blown excerpt, the citation will include only the year the case was decided and its chapter location. If the cited case has appeared only in a previous note, the citation will also include the full U.S. Reports citation, to allow students to locate it more easily. If an opinion or note cites a case that appears *later* in the book, no *infra*. reference to that later chapter is provided, on the theory that students have not yet encountered the cited case and thus cannot evaluate the Court's use of it. Pin cites (*i.e.*, cites to particular pages in the Court's opinion) are generally omitted, except (again) where the context demands they be retained.

The book generally maintains the original paragraph breaks in the Court's opinions, but it sometimes deviates from them in order to promote readability (*e.g.*, to avoid one-sentence or even one-line paragraphs, or a series of very short paragraphs). The book also deviates from the Court's opinions in that it deletes brackets that the Court has inserted around letters when changing tenses or the capitalization of letters or making other similar alterations to text it quotes. Thus, for example, if the Court's opinion reads as follows,

> As we explained in *Smith*, "pass[ing] such a law raises serious constitutional concerns" that justify the scrutiny we perform today.

the excerpt in the book will read:

> As we explained in *Smith*, "passing such a law raises serious constitutional concerns" that justify the scrutiny we perform today.

Further, in most cases, internal quotation marks in an opinion will be omitted unless, as with the example above, the internal quotation marks are integral to making sense of the Court's sentence structure.

Ellipses can reflect the deletion of a word, phrase, sentence, or sometimes an entire paragraph or section. However, they are not used to reflect the deletion of citations or footnotes. Asterisks are used rather than ellipses only when ellipses are typographically inappropriate; there is no substantive significance to the use of one rather than the other. (Note, however, that in rare cases, justices will use centered asterisks to separate parts of an opinion. This book simply reprints those asterisks.) Footnotes retain their original numbering.

In short, readers can rely on this book for accurate transcriptions of the Court's language, but not for paragraph structure, transformation of a quoted word (*e.g.*, from capitalized to lower case or from one tense to another), and use of internal quotations. Users of the book who wish to quote from the cases presented here for their own writing should consult the original versions of the cases.

Introduction

Constitutional Law is many things. It's fascinating, and a crucial part of any American lawyer's knowledge. But it's also difficult. The issues themselves are highly complex, and that complexity is only multiplied by the vastness of the field, and the disagreement about fundamental aspects of constitutional interpretation—for example, about the proper methodology for interpreting the document.

This brief introduction can't even come close to comprehensively discussing these issues (let alone resolving them). Instead, it merely introduces students to the topic. The hope is that this Introduction will contextualize the materials that appear in this book, so as to make them more comprehensible. In order to provide that context, this Introduction tackles several basic issues.

1. The Scope of the Material

Constitutional law is a vast topic. The Constitution is, simultaneously, a general blueprint for governmental structure, a guide for specific structural questions (*e.g.*, how old does one have to be in order to become President?), and a charter of rights. Indeed, as noted earlier, the topic is so broad that no one law school class aspires to cover all of constitutional law. Classes called "Constitutional Law" typically cover the materials addressed in this book: the basics of federalism and the separation of powers (including the powers of the federal courts), due process, and equal protection. Even this enumeration overstates the coverage: for example, the Due Process Clause of the Fourteenth Amendment has been understood to include, or "incorporate" as rights against state governments, most of the individual rights the Bill of Rights protects against *federal* impairment. But this book—and indeed, most courses in Constitutional Law—do not cover those Bill of Rights provisions in detail. For example, while the Fourteenth Amendment's Due Process Clause incorporates the Fourth Amendment's guarantee against unreasonable searches and seizures, you will not find a discussion of Fourth Amendment doctrine in this book, even though technically this right, in its incorporated form, is a "due process" right. For that discussion you'd need to take a class on Criminal Procedure.

But even the topics this book *does* cover comprise a vast array of issues. Does the federal government have the power to regulate water pollution? Can Congress control how administrative agencies regulate? Can the President launch missile strikes on a foreign nation without a declaration of war? Can a state ban late-term

abortions? Same-sex marriage? Can a state university engage in racial preferences? The disparate nature of these topics, and others like them, presents a daunting challenge to students seeking a coherent understanding of the material covered in a basic Constitutional Law course. Finding themes in the Court's discussion of these topics will likely be one of your major tasks during this class. But one problem we can start to resolve is the one caused by the interrelationships between the different topics you'll consider. That interrelatedness creates a classic "chicken and egg" problem—that is, you can't understand topic A until you've learned about topic B, but you can't understand topic B until you've learned topic A. In order to break out of this loop, the next part of this Introduction provides a very basic roadmap to the different areas the book covers, and notes places where an understanding of one topic will be useful to your comprehension of another.

2. An Overview of the Material

At a very basic level, this book covers the following topics, in the following order: the separation of powers (Part I); the federal-state relationship (Part II); substantive rights under the Due Process Clause (Part III); equality rights under the Equal Protection Clause (Part IV); and congressional power to enforce the Fourteenth Amendment and the problem of Fourteenth Amendment "state action" (both in Part V).

This book thus begins with structure, before moving on to rights. But don't be fooled into thinking that structure and rights are hermetically sealed from each other. They are not. Indeed, the original drafters of the Constitution (the statesmen who gathered in Philadelphia in 1787) inserted relatively few rights into the original document. Most of the rights we think about today when we think of "constitutional rights"—*e.g.*, rights to free speech, or to be free of unreasonable searches or seizures or cruel and unusual punishment—were included as amendments to the Constitution, only after the Constitution's opponents insisted on those amendments as a price for their support of its ratification. But this is not to say the Framers did not care about rights. They cared deeply. But for them, the real guarantee that the new federal government would not violate rights flowed from the structure the Constitution created—a structure of limited federal power (as Part II examines), exercised through a structure which divided up even that limited power between three branches (as Part I examines). Thus, the structure you will study in the first half of the class was understood by the Framers to have concrete (and positive) implications for rights, by dividing power among competing institutions.

Your understanding of those structural materials will be assisted by realizing some basic facts. First, the federal government enjoys only those powers the Constitution grants. In other words, it does not possess a residual sovereignty to regulate whatever conduct it believes needs regulating—what is sometimes referred to as "the police power." (Note that "the police power" goes far beyond what we

think about as normal police department activities.) Nevertheless, those enumerated powers cover a vast amount of regulatory ground. Most of that breadth comes from one particular federal power: Congress's power, granted to it in Article I, to "regulate Commerce . . . among the several states." Over approximately the last eighty years, the interstate commerce power has come be understood as granting Congress enormous power to regulate economic and social life. This has happened largely because the economy itself has become so nationally integrated that almost any conduct (say, a local sale of a loaf of bread) can be plausibly thought of as being part of a national (and even global) chain of activity. But it has also come about because, over that period, the Supreme Court has become much more accepting of Congress's use of the commerce power.

Obviously, these developments matter for purposes of the federalism materials you'll study in Part II. But they also matter for Part I's separation of powers discussion. The increased breadth of federal regulatory power has been accompanied by a growth in the federal regulatory apparatus—the alphabet soup of federal administrative agencies you may have heard of, from the Environmental Protection Agency (EPA), to the Securities and Exchange Commission (SEC), the Food and Drug Administration (FDA), and a host of others. Part I considers who controls that bureaucracy—the President (who, after all, has the power under Article II to "take Care that the Laws be faithfully executed"), or Congress, which enacted the legislation those agencies implement (and indeed, which created the agencies to begin with).

But the scope of federal power matters to the separation of powers for another reason. After all, it was the federal courts, and the Supreme Court in particular, that have come to be understood as the ultimate arbiter of the federal-state balance. As you'll see in Part II, it was the Court that blocked much (though certainly not all) of the New Deal legislation expanding federal control over the economy starting in the 1930s. More recently, in the last quarter-century, the Court has reinserted itself into the federalism equation, insisting on a key role in judging whether Congress has exceeded its Article I powers (in particular, but not only, its power over interstate commerce). Part I's consideration of how the Court came to play such a crucial role in determining what the Constitution means thus has major implications for how our federal system has evolved.

Just as the separation of powers materials in Part I presuppose some knowledge of the federalism materials in Part II, so too those federalism materials presuppose some knowledge of the individual rights materials in Parts III–V. These two sets of materials are related in part because another crucial congressional power, other than the power to regulate interstate commerce, is the power to enforce the Reconstruction Amendments (the Thirteenth, Fourteenth, and Fifteenth Amendments, so labeled because they were all part of the process by which the former confederate states were "reconstructed" after the Civil War). The enforcement power is discussed in Part V; the due process and equal protection rights Congress has the power to enforce are discussed, respectively, in Parts III and IV.

The federalism and individual rights materials are also related in a more fundamental way. The Fourteenth Amendment profoundly changed the relationship between the federal government and the states. With that amendment's ratification, the Constitution directly regulated how states treated their own citizens. Thus, in a very real way, Part II's focus on federalism continues into the rest of the book. Indeed, so does Part I's discussion of the power of the federal courts, since the Supreme Court has played the primary role in interpreting the Fourteenth Amendment.

Parts III and IV consider, respectively, substantive rights under the Due Process Clause and equality rights under the Equal Protection Clause, both of which appear in the Fourteenth Amendment. But even that straightforward statement requires clarification. Part III's consideration of "substantive rights under the Due Process Clause" is not a complete examination of all such rights. As noted earlier, it does not examine particular Bill of Rights provisions (*e.g.*, the Fourth Amendment right against unreasonable searches) that are included, or "incorporated," within the "liberty" the Due Process Clause protects. (However, Part III does examine the incorporation process itself.) Instead, this book's discussion of "due process" rights focuses mainly on so-called "unenumerated" rights—the rights that are not textually provided in the Bill of Rights, but that the Court has found implicit in the idea of the "liberty" due process protects: rights to family relationships, privacy, sexual autonomy, abortion, and, for a period in our history, economic liberty.

As you'll see when you read these materials, this book organizes the modern due process cases chronologically, to allow you to observe the evolution of the Court's methodologies for identifying the existence of a due process right and deciding whether the challenged government action violates that right. The modern Court has been unable to coalesce around a single approach to due process cases. The book presents cases illustrating the varied and changing approaches the justices have taken to those questions.

Part IV considers equality. Unlike due process, which applies explicitly to both the federal government (through the Fifth Amendment) and the states (through the Fourteenth), the guarantee of "the equal protection of the laws" applies explicitly only to the states, via the Fourteenth Amendment's Equal Protection Clause. However, as you'll see in Part IV in a case called *Bolling v. Sharpe*, the Court has found an analogous equality guarantee to apply against the federal government, as part of the Fifth Amendment's Due Process Clause.

Beyond that wrinkle, one thing you may notice when you read the equal protection materials is that, after an initial burst of concern with racial equality in the 1870s, they turn away from serious consideration of race for decades, and toward the meaning of "equal protection" in other contexts. As you think about the Court's consideration of equal protection in those other contexts, consider the interpretive difficulty inherent in the phrase "the equal protection of the laws." What does that guarantee require? What does it mean to treat persons equally? Can courts competently decide when treating two groups differently violates equal protection, or when, instead, such differential treatment (for example, different tax rates

for different types of income) is appropriate? Part IV considers these questions as applied to a variety of government classifications.

Part V concludes the book by considering two issues that apply to both due process and equal protection. First, in Chapter 17, it examines Congress's power to "enforce" the Fourteenth Amendment. Those materials will require you to think about whether Congress may be better-placed than courts to decide what "due process" and "equal protection" mean. Chapter 18 discusses the problem of state action — that is, the requirement that parties alleging a violation of their Fourteenth Amendment rights point to some conduct by a state. In most of the due process and equal protection cases you read in Parts III and IV, the state action is obvious. But Chapter 18 highlights situations where the issue is not as clear-cut.

3. The Unlitigated Constitution

This casebook devotes a not-insignificant number of pages to the constitutional views of persons and institutions other than courts (in particular, Congress, the president, and, to a lesser degree, important "cause" litigators who developed long-term litigation strategies designed to achieve broad constitutional change rather than simply specific results for their clients). Nevertheless, like the vast majority of constitutional law texts, this book focuses on courts, cases, and opinions. This focus necessarily obscures many parts of the Constitution — those that courts do not speak about, either because they feel themselves incompetent or not authorized to speak on those issues, or because they are so clear that nobody litigates them. These provisions comprise important pieces of our constitutional structure. It is worth spending at least a moment considering "the unlitigated constitution."

Consider, for example, the structure of the national government. While many structural issues are litigated (as set forth in Parts I and II of the book), many others are so explicit as to be settled simply as a matter of text. But they still raise important questions. For example, why is the Senate constructed the way it is? As of the 2010 census, the most populous state, California, had nearly 37 million people, while the least populous, Wyoming, had fewer than 550,000. Yet both states have two senators. To the extent state population disparities reflect socially-relevant differences (urban/rural, minority/white, affluent/poor, industrialized/agriculture or mining based), this structure locks in a bias toward certain interests. If nothing else, it locks in differences in voting power: a Californian can surely complain that her vote counts less than any other American's, and substantially less than a resident of a sparsely-populated state. Such issues matter for the democratic nature of our government.

Other structural features raise different concerns. For example, our system is set up so that the president does not have to be a member of the party that controls Congress. (Indeed, such "divided government" has become common in recent decades.) Other democracies are structured differently; for example, so-called

"parliamentary democracies" are structured so that the majority party in the legislature is, by definition, the party that controls the executive branch. (Thus, the British Prime Minister is always the leader of the party that controls the House of Commons.) As you'll see when you read the materials in Part I, justices explain that the Framers "separated" national powers in order to discourage the tyranny that comes from concentrated power. But critics have noted a darker side to our system: the paralysis and gridlock that many Americans routinely complain about today. That system is not subject to judicial challenge — it is clearly how our government is set up. But, like these other examples, it is worth considering: after all, just because it's not litigated doesn't mean it's not "constitutional law."

Finally, consider the "state action" limitation of the Fourteenth Amendment. As you'll see, judges, lawyers and scholars have proposed ways in which this limitation should not be as absolute as it might otherwise seem. But it unquestionably exists: in some basic way, the Fourteenth Amendment only acts as a limit on governmental (*i.e.*, "state") action. To what extent does this limitation crimp the Amendment's implicit promise that all Americans would be equal, and that certain basic rights (to "life, liberty, and property") would not be impaired without "due process"? Does it matter that, today, corporations and other private institutions have power over individual Americans that was likely unimaginable when the Fourteenth Amendment was drafted? What does it matter if states are prevented from denying "equal protection," if private parties are free to do just that (at least in the absence of statutory regulation)? Again, the basic rule is unquestioned: the Fourteenth Amendment limits only states. What does that foregone choice by the Congress that drafted the Fourteenth Amendment mean for our conceptions of "equal protection" and "due process"?

4. Methods of Constitutional Interpretation

A final concept that you should be aware of as you begin your study of constitutional law is the modern debate over the proper method(s) of interpreting the Constitution. In recent decades, scholars have heatedly debated the appropriateness of various interpretive methodologies. Those debates are not merely academic: judges and justices have entered those debates as well, and you'll see their reflection in the judicial opinions you read.

The first debate you'll encounter, in Part I, is between those who view the separation of powers as a doctrine calling for bright-line rules demarcating the prerogatives of the three branches, and those who apply blurrier, more fact-specific, functional tests. Both of these approaches can claim a foundation in fundamental separation of powers principles: the Constitution unquestionably separates the legislative, executive, and judicial powers, but it also calls for branches to share powers, for example, when Article II makes the President Commander-in-Chief of the armed forces but gives Congress the power to declare war and provide for military

forces. These countervailing principles have led to a separation of powers jurisprudence that oscillates uneasily between these two approaches.

An even more fundamental interpretive faultline is the one over "originalism." This is an interpretive methodology that, as understood today, seeks to find constitutional meaning in the original meaning of the words used in the Constitution. (Earlier versions of originalism focused on the original *intentions* of those who drafted and/or ratified the Constitution, or the original *expectations* about how a provision would be applied; however, these approaches have faded somewhat in favor of so-called "original meaning originalism.") The insight underlying originalism is straightforward: the Constitution is comprised of words, and the standard way lawyers interpret a legal document is to inquire into what the relevant words meant at the time of enactment. Indeed, the argument goes further, and observes that the Constitution is legitimate law only because it was ratified by the American people. But what those people ratified was the words, with the meanings those words had to those people. Thus, the argument goes, the only legitimate way to give force to the Constitution as legally binding is to give effect to the original meaning of its words.

This is a powerful argument. But it encounters the response that the Constitution, as a short and often non-specific document, cannot always sensibly be interpreted solely by recourse to its "original public meaning." As a practical matter, such meaning may be difficult to uncover, given the passage of time. It may also be difficult for more fundamental reasons as well. For example, one might wonder whether one can really understand the original public meaning of a word, or a term, when the surrounding context has changed dramatically. Consider one example. One might, with effort, be able to determine what the average American thought "interstate commerce" meant in 1787. But that meaning might be inextricably enmeshed in a set of understandings about the world—*e.g.*, understandings about how much interstate trade there was in 1787, and how much commerce was in fact truly local, in the sense that isolated communities had essentially no impact on commerce across state lines. Did the meaning of "interstate commerce"—not just its application, but its actual meaning—change when the economy integrated as much as it did after the Industrial Revolution? Finally, one single "meaning" of a constitutional term may simply not exist. The Constitution was a compromise; it is highly likely that the Framers left certain provisions vague simply because there was no consensus about what they should mean.

A prominent competitor to originalism is so-called "living constitutionalism." Speaking very generally, this theory posits that constitutional meaning should evolve over time, in response to the nation's political, economic, and social evolution. Consider, for example, the Fourteenth Amendment's Equal Protection Clause. In 1868, it was highly unlikely that most Americans understood "equal protection" to require sex equality. (Early women's rights advocates did push for such a meaning, but they were a distinct minority.) When today we believe that "equal protection" includes sex equality, are we engaging in living constitutionalism? Some

originalists argue that sex equality is simply an application of the Clause's original meaning, which, they say, was to abolish all arbitrary classifications. Of course, if all originalist analysis can do is posit a meaning at a very high level of generality (*e.g.*, "the original meaning of equal protection is to prohibit all arbitrary classifications"), then all of the hard work is being done at the level of applying that meaning to concrete cases. In that case, a living constitutionalist might well accept originalism, but argue that such analysis does very little to decide cases without some other interpretive tool filling in what originalism leaves undecided. And, indeed, some prominent originalists essentially agree with this critique, at least in certain cases.

As you read this book, think about these methodological disputes. While they may seem far removed from the nuts-and-bolts issues the cases decide, understanding these broader principles will help you uncover connections between the cases.

5. Setting the Scene: The Constitutional System in 1787

English colonization of the North American continent had existed for over 150 years when the thirteen colonies declared their independence in 1776. Those colonies featured governments that would be roughly recognizable today, consisting of colonial legislatures, some type of court system, and an executive, often appointed from London.

The period after independence featured changes to those colonial governments, the implications of which influenced the Framers a decade later. After independence, the colonies reorganized themselves as states. They ejected royal governors, and while most of them instituted the office of "governor," those positions often held much less authority, with popularly-elected legislators taking on greater power.

The results worried many of the statesmen who gathered in Philadelphia in 1787. They expressed concern that those newly-empowered legislatures, freed from any significant check from other branches, had infringed on property and contract rights, for example, by printing currency in amounts that effectively diminished the value of debts, and even overturning court judgments on debts. (Justice Scalia discusses this phenomenon in *Plaut v. Spendthrift Farm*, excerpted in Chapter 1.) Echoes of these concerns can be seen in the Constitution's restrictions on states coining money, "making any Thing but gold and silver Coin a Tender in Payment of Debts," and "passing any . . . Law impairing the Obligation of Contracts." Art. I, § 10, cl. 1. Beyond those limitations on states, the experience of all-powerful, unchecked legislative bodies convinced many Framers of the importance of dividing sovereign power, in order to guard against tyranny.

At the same time, the nation's experience under the Articles of Confederation convinced many Americans of the need for a stronger central government. The Articles, under which the nation was governed during the latter stages of the Revolution

and until the ratification of the Constitution, essentially created a league, or community, of sovereign nations. While the Articles government had the authority to act abroad, it had very little coercive authority domestically: for example, it relied on states for its tax revenue, and lacked the power to regulate commerce between the states. As a consequence, the national government was unable to act vigorously to promote economic growth and prevent trade wars between the states. Indeed, the Articles government could, for the most part, act only on the states rather than directly regulating the American people, further enfeebling the central government.

These weaknesses ultimately led political leaders to push for a convention to strengthen the central government. That movement eventually led to the Philadelphia convention, where delegates from the states reached compromises that resulted in the Constitution. When the Constitution was sent to the states for ratification, opponents of the Constitution, known as the anti-Federalists, objected that the proposed federal government would be so strong that it would threaten Americans' liberties. In response, the Constitution's proponents, known as Federalists, argued that the limited powers the document gave to the federal government reduced that risk; nevertheless, they promised to amend the Constitution to provide a set of explicit guarantees—what became the Bill of Rights.

The ratification fight in New York produced a particularly noteworthy set of arguments. Prominent Federalists—Alexander Hamilton, James Madison, and John Jay—wrote a series of essays urging ratification. Those essays, which were printed in the local press, were eventually published as *The Federalist Papers*. Throughout Parts I and II you'll see references to those essays, which are considered important insights into the Constitution's meaning.

The Constitution of the United States of America

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

Article I

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

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

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

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

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

Section 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

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.

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

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

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

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

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

Section 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

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

Section 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

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

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

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

Section 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

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

Section 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other Bills.

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

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

Section 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

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

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

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

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

To establish Post Offices and post Roads;

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

To constitute Tribunals inferior to the supreme Court;

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

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

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

To provide and maintain a Navy;

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

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

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

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

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

Section 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

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

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

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

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

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

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

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

Section 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

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

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

Article II

Section 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

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

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

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

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

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

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

Section 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual

Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to Grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

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

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

Section 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Article III

Section 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

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

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

Section 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

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

Article IV

Section 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

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

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

Section 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

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

Section 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

Article V

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

Article VI

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

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

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

Article VII

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

Amendment 1 [1791]

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.

Amendment 2 [1791]

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.

Amendment 3 [1791]

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.

Amendment 4 [1791]

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.

Amendment 5 [1791]

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

Amendment 6 [1791]

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.

Amendment 7 [1791]

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.

Amendment 8 [1791]

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

Amendment 9 [1791]

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

Amendment 10 [1791]

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.

Amendment 11 [1795]

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.

Amendment 12 [1804]

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

Amendment 13 [1865]

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.

Amendment 14 [1868]

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they

reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 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.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

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

Amendment 15 [1870]

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

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

Amendment 16 [1913]

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.

Amendment 17 [1913]

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.

Amendment 18 [1919]

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

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

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

Amendment 19 [1920]

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.

Amendment 20 [1933]

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.

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

Section 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President

elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Section 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

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

Section 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

Amendment 21 [1933]

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.

Amendment 22 [1951]

Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of 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.

Amendment 23 [1961]

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.

Amendment 24 [**1964**]

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

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

Amendment 25 [**1967**]

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

Section 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Section 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Section 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling

within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

Amendment 26 [1971]

Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

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

Amendment 27 [1992]

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