

# **CONSTITUTION REVIEW AND GUIDE:**

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## THE BIRTH OF THE CONSTITUTION

### *The Articles of Confederation*

During the Revolutionary War, the United Colonies needed a document to govern the lands then struggling to be free from England's rule. The Articles of Confederation became the first national constitution of the United States in March of 1781.

The Articles of Confederation established a government organized around a Congress. Each of the thirteen states would only have one vote regardless of size or population. For a law to pass, nine of the thirteen states had to agree.

The Congress had the power to declare war, make peace, and make treaties. It could also coin and borrow money, create post offices, admit new states, and create an army and navy.

On the other hand, the Congress could not tax, and it could not control or interfere with trade between the individual states.

There was no one person who was in charge of this new government. Because they feared the return of tyranny, the founding fathers were very cautious not to create a new "king" that was exactly why they had separated from England. So, as a result, there was no executive to carry out the laws passed by Congress. Ultimately, this lack of a leader caused much confusion.

The Articles of Confederation created a loose friendship between the Revolutionary War Soldiers thirteen states. This loose friendship was enough to win the War for Independence and keep the states together as one country. But without an executive, the power to tax, and the ability to regulate trade, the Congress could not function effectively. Many Americans felt the Articles of Confederation needed to be revised.

By 1786, more problems were beginning to surface. A convention of five of the thirteen states, called the Annapolis Convention, met at Annapolis, Maryland, in September, 1786. They met to study the trade problem. There was not enough representation to make any big decisions, so the delegates led by Alexander Hamilton (New York) and James Madison (Virginia) called for another convention to begin in May, 1787, in Philadelphia, Pennsylvania. In February of that year, Congress agreed with the delegates and stated the convention would have the "sole and express purpose of revising the Articles of Confederation."

## THE BIRTH OF THE CONSTITUTION

### *The Constitutional Convention*

The Constitutional Convention opened in Philadelphia in May, 1787, and finished its work in September. The delegates to the convention were not elected by the people, but instead were selected by their state legislatures.

The delegates to the convention were men of great ability. Many had fought in the Revolutionary War, many were educated, and many were wealthy. They were men of great power and influence in their own states. Eventually, two would become presidents of the United States, one a vice president, and 26 would serve in Congress. All in all, there were 65 official delegates, but only 55 made it to Philadelphia. The average attendance at each day's meeting was about 30.

George Washington, a delegate from Virginia, was chosen to be the president of the convention. At first, the purpose of the convention was to revise the Articles of Confederation, but very quickly the delegates decided to replace the Articles with a new plan for government.

Two important leaders were absent from the convention. John Adams and Thomas Jefferson, who were influential in the writing of the Declaration of Independence, were in Europe serving as ambassadors to other nations. Benjamin Franklin of Pennsylvania was the oldest delegate at 81 years old, and Jonathan Dayton of New Jersey was the youngest at 26. Other delegates present were Alexander Hamilton and James Madison. There was one state that refused to send delegates to the Constitutional Convention; Rhode Island did not send any representatives to Philadelphia.

During those five hot summer months in 1787, the 55 delegates struggled to create a more flexible form of government for the new United States. The most serious task that faced the delegates was how to achieve a balance between liberty and authority. There were many different viewpoints and opinions on how to go about that task. The concept of compromise unified the differences into a supreme document capable of representing the opinions of all Americans.

The Constitution that resulted from this historic convention is now over 200 years old. Few written constitutions have lasted as long as the Constitution of the United States.

## THE BIRTH OF THE CONSTITUTION

### *Compromise*

Without compromise in 1787, our government would have collapsed in infancy. Compromise is a settlement in which both sides give up something in order to reach an agreement. There were many different compromises made during the Constitutional Convention. The most important compromises dealt with how our government would be set up.

A major concern of the delegates was how to set up the lawmaking body of our government, the legislative branch. How should states be represented in the legislative body? Who would have control—the small states or the large states? This issue threatened to destroy the convention. Eventually, the delegates came to an agreement known as the Great Compromise, which combined the best of the Virginia Plan and the New Jersey Plan.

The Virginia Plan was proposed by the states having the larger populations. First, they suggested that the lawmaking body be called Congress. This Congress was to be bicameral (having two houses). The first house would be elected by the people, and the second house would be elected by the first house. The number of Congressmen was to be determined by the population of the state. The larger states liked this plan because they had a larger population and as a result would be able to control the government. They favored a plan based on population.

An alternative was the New Jersey Plan supported by the smaller states. First, the small states proposed a Congress that was unicameral (having one house) with each state having the same number of representatives or votes. The smaller states would then be equal with the larger states. They favored a plan based on equality. Eventually a compromise was reached. The compromise became known as the Great Compromise, because without this basic issue settled, the Convention would have failed.

The Great Compromise called for a bicameral Congress. The first house was to be called the House of Representatives, with representatives elected by the people for a two year term. The number of representatives each state could elect would depend on the population of the state. This pleased the large states.

The second house was to be called the Senate, with senators elected by their state legislatures for a six-year term. Each state would have two senators. This pleased the small states. The Great Compromise had succeeded; both sides got what they wanted.

## THE BIRTH OF THE CONSTITUTION

### *Separation of Powers*

Another problem facing the Constitutional Convention was how to divide the powers of a government. Who will make the laws? Who will make sure the laws are obeyed? Who will make sure the laws are "good" laws? These questions were answered in the next set of compromises.

American government can be seen as a tree. The Constitution is the trunk, or base with three branches extending from that trunk. Those three branches are the legislative branch, the executive branch, and the judicial branch. Each branch has different responsibilities and looks out for and checks the other two branches. These concepts, respectively, are called *separation of powers* and *checks and balances*.

The *legislative* branch was defined during the Great Compromise. Together, the House of Representatives and the Senate make the laws to govern our country. The legislative branch also checks the executive and judicial branches.

The second branch is the *executive* branch. Eventually, the delegates decided to create a chief executive. Under the Articles of Confederation, there was no national leader. The founding fathers had feared creating another "king." There was much discussion, even talk of having two equally powered leaders. The convention agreed to create one President, but only if the President would be checked or watched by the legislative and judicial branches. The job of the President and the executive branch is to carry out the laws passed by the legislative branch.

The third branch established the *judicial* system. The judicial branch was to be headed by the Supreme Court. It is the job of the Supreme Court to interpret or define the laws. The Supreme Court is chosen by the President and approved by the Senate. The judicial branch checks the executive and legislative branches.

Each branch has its own specific responsibilities. Each has a separate power. Part of the responsibility of a branch is to control or check the power of the other branches. That way, no one branch gets to be too powerful; each branch is balanced.

## THE BIRTH OF THE CONSTITUTION

### *Organization of the Constitution*

On September 17, 1787, the Constitutional Convention approved the Constitution of the United States. The document was then sent out to the states to be ratified, or approved, through a specific procedure set up in the Constitution. On June 21, 1788, New Jersey became the ninth state to ratify the Constitution, and the necessary three-fourths majority was achieved. The United States began to function under a new form of government.

The Constitution is divided into several parts. It starts with the Preamble, or introduction. The main body of the document consists of seven Articles. The final section of the Constitution contains the Amendments, or changes to the Constitution. There are presently 27 Amendments.

The first three Articles deal with the three separate branches of government. The last four Articles discuss the powers of the states and the procedures for ratifying and amending the Constitution. Each Article is further subdivided into Sections and then into Clauses.'

On your copy of the Constitution you will notice that some phrases or sections are printed in italics. This indicates that these parts are no longer in effect due to the passage of time or changes made by the Amendments.

On the next page is a chart of the organization of the Constitution.

Throughout the convention Ben Franklin had noticed the back of George Washington's chair. There was a sun carved into it. "I have often and often in the course of this session looked at that behind the President without being able to tell whether it was rising or setting; but now at length I have the happiness to know that it is a rising and not a setting sun," Franklin observed.

# Organization of the Constitution

<b>PREAMBLE</b>	Introduction
<b>ARTICLE I</b>	Legislative Branch
<b>ARTICLE II</b>	Executive Branch
<b>ARTICLE III</b>	Judicial Branch
<b>ARTICLE IV</b>	Relationships Among States
<b>ARTICLE V</b>	Amending the Constitution
<b>ARTICLE VI</b>	Supreme Law of the Land
<b>ARTICLE VII</b>	Ratifying the Constitution

## AMENDMENTS:

I	Freedom of religion, press, speech, assembly, petition
II	Right to bear arms
III	Quartering of soldiers
IV	Searches and seizures
V	Life, liberty, and property
VI	Rights of the accused
VII	Right to trial by jury
VIII	Bail and punishment
IX	Rights of the people
X	Rights of the states
XI	Suits against states
XII	Election of the President
XIII	Abolition of slavery
XIV	Civil rights in the states
XV	Black suffrage
XVI	Income tax
XVII	Direct election of senators
XVIII	Prohibition
XIX	Women's suffrage
XX	"Lame duck" period
XXI	Repeal of Prohibition
XXII	Presidential term of office
XXIII	Voting in the District of Columbia
XXIV	Abolition of poll taxes
XXV	Presidential disability and succession
XXVI	Eighteen-year-old vote
XXVII	Congressional pay raises

## THE BIRTH OF THE CONSTITUTION

### *The Preamble*

(See the Preamble)

The Preamble lists the major goals to be accomplished by the United States government under the Constitution. The importance of the Preamble and the Constitution are expressed in the first three words, "We the people ... ." The Constitution was created by the people, not by some king, dictator, or absolute ruler.

The founding fathers had six goals in mind when they set out to create the Constitution. They are:

- (1) **to form a more perfect union**  
*(set up a stronger government than they had under the Articles of Confederation)*
- (2) **establish justice**  
*(improve the court system)*
- (3) **ensure domestic tranquility**  
*(have peace in all states)*
- (4) **provide for the common defense**  
*(protect the country from enemies)*
- (5) **promote the general welfare**  
*(have good living conditions)*
- (6) **secure the blessings of liberty to ourselves and our posterity.**  
*(have freedom for themselves and future Americans)*

The Preamble expresses the hopes of the people for a good and honest government for themselves and their children.

### **PREAMBLE TO THE UNITED STATES CONSTITUTION:**

*We the people of the United States, in order to form a more perfect Union, establish justice, ensure domestic tranquility, provide for the common defense, 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 LEGISLATIVE BRANCH

### *Introduction*

(See Article I, Section 1)

The legislative branch of the United States *government* is described in Article I of the Constitution. Its major job is to make our country's laws. The American system of *government* is based on a representative form of *government*. Not all Americans can meet in the same place at the same time to make laws, so Americans choose representatives to make the laws for them. Representatives carry out the will of the people, or they are replaced during the next election.

Laws are passed by a *majority vote*. Majority means one *over* half. For example, among 10 people, six or more of them must agree in order to pass a law. The larger group of politicians is known as the majority, and the smaller group is known as the *minority*. If you are in the minority, you try to encourage members of the majority to change sides.

The legislative branch of our Federal *government* is called Congress. Congress is made up of the House of Representatives and the Senate. Congress begins its meetings on the third day of January *every* odd-numbered year. The meetings are called terms and they last two years with a recess, or break, during the summer. The first term of Congress met from 1789-91. The House of Representatives and the Senate meet in different chambers on opposite sides of the Capitol Building in Washington, D.C.

The Congress makes its own rules *governing* its meetings. It can *expel*, or *remove*, a member by a two-thirds *vote*. That means that two thirds of the members, not just a majority, *have* to agree to an action. A record is kept of all the meetings and is published in the *Congressional Record*.

Members of Congress also *have* certain *privileges*. They cannot be arrested when going to or coming from Congress, or while attending a session of Congress. A member cannot be sued or punished for anything he or she might say in Congress.

The Constitution goes on to define the individual responsibilities and requirements of the two houses of Congress: the House of Representatives and the Senate, our lawmaking bodies.

## THE LEGISLATIVE BRANCH

### *The House of Representatives*

(See Article I, Section 2)

The largest house of Congress is the House of Representatives. There are 435 representatives in the House. The number of representatives a state has is based on the number of people, or population, in the state. There is one representative for every 500,000 people. So if a state has two million people, that state would be able to send four representatives to Washington, D.C.

The term of office for a representative is two years. In order to stay in office, he or she must be reelected every two years.

To find out how many people are in a state, the government conducts a *census*, or count of the people, every ten years. The first census was conducted in 1790. When will the next census occur?

In order to be a representative, there are certain requirements to be met. A representative must be at least 25 years old, must be a citizen of the United States for at least seven years, and must live in the state from which he or she is elected.

Within the House, there are several leaders. The Speaker of the House is the presiding officer. The Speaker is selected by the members of the House and is usually a member of the majority party. The Speaker of the House is second in line to take over the presidency, after the Vice President, in the event of an emergency.

The House of Representatives has the sole power to begin *impeachment proceedings* against a government official. To impeach is to accuse an official of some wrongdoing or misuse of power. The House begins the process by accusing the official, but the trial is carried out by the Senate. More about impeachment will be discussed in later chapters.

## THE LEGISLATIVE BRANCH

### *The Senate*

(See Article I, Section 3)

The other house that makes up the Congress is the Senate. The Senate is the smaller of the two groups, with only 100 members. These people are known as senators. Each state, regardless of how big or small, has two senators. Currently there are 50 states, so we have 100 senators in Washington, D.C.

Each senator is elected for a six-year term, but every two years, one third of the senate is up for reelection. For example, in 1992, 33 senators were elected for six-year terms. In 1994, 33 others will be elected, and in 1996, 34 will be elected. This way, there is never an entirely new group of senators; there will always be some experienced senators to guide the newcomers.

According to the original Constitution, the senators were chosen by their state legislatures, but in 1913, the Seventeenth Amendment changed this and allowed the people to elect their senators directly.

In order to be a senator there are certain requirements that must be met. A senator must be at least 30 years old, a citizen of the United States for at least nine years, and live in the state he or she represents.

The Senate also has certain leaders. The Vice President of the United States is in charge of all meetings of the Senate. He can only vote in the event of a tie between the senators. If the Vice President is absent, the senators choose an alternate presiding officer known as the president pro tempore (temporary president). The president pro tempore is third in line to take over the presidency in the event of an emergency.

With regards to the impeachment process mentioned in the last lesson, the Senate acts as the jury and tries any impeachment cases. When the House of Representatives accuses an official of a crime, the Senate decides whether or not the official is guilty. The Chief Justice of the Supreme Court acts as the judge. Two thirds of the senators present must find the official guilty in order to remove him or her from office.

## THE LEGISLATIVE BRANCH

### *Rules, Rights, and Privileges of Congress*

(See Article I, Sections 5,6)

Each house of Congress develops a set of rules for its members, but the Constitution also sets forth specific rules and rights.

In order for a meeting to be held, there must be a *quorum*. A quorum is one person over half of the number of members. For example, for the Senate to have a quorum, there must be 51 senators present (one over half: 51/100). The same is true of the House of Representatives.

The House and Senate may *expel*, or remove, a member for breaking its rules. To expel a member, two thirds of the House or Senate must agree to the removal.

The House and Senate publish the notes, minutes, and records of their meetings in what is known as the *Congressional Record*.

Both houses of Congress must meet in the same city and must meet during the same time. Neither house can *adjourn*, or stop meeting, without the consent of the other house.

Representatives and senators are paid by the United States government, and their salary is set by law. Members of Congress cannot be arrested during meetings or while going to or from meetings. They also cannot be punished for anything said during one of their meetings.

One right reserved to the House of Representatives is the handling of money matters. Only the House may introduce bills to raise money.

## THE LEGISLATIVE BRANCH

### *How Bills Become Laws*

(See Article I, Section 7)

The laws, or rules, our country has were passed to keep our country functioning. There is a long step-by-step process in the making of laws.

Before a law is a law, it is known as a *bill*. A bill is an idea that a representative or a senator has that he would like to see become a law. A bill may start in either the House of Representatives or the Senate, except for money bills, which must start in the House.

Let's say Senator X has a bill to proclaim June 21 as National Cardinal Day. He takes his bill in written form to his fellow senators, and it is given a code number. If the other senators disagree with the bill, they vote it down, and the bill is dead. If they agree, the bill is passed over to the House of Representatives.

The bill is given to the House of Representatives to discuss and vote on. If they disagree, they vote it down and send it back to the Senate for changes. If the Senate refuses to make changes, the bill dies. If the House approves the bill, it is given to the President for his approval.

If the President agrees with the Bills must go through a long, difficult process bill, he signs it and it becomes a law. The before they finally become the law of the land. bill can also become law if the President does not respond to it within ten working days. If the President does not agree with the bill, he *veto*es it. With a veto, the President is rejecting the bill. If the President does not sign the bill within ten days after Congress adjourns, the bill dies. This is known as a pocket veto.

If the bill has been vetoed and Congress is still in session, the bill then goes back to the house where it started, in our case, the Senate.

If two thirds of the Senate agree with the bill, that is called *overriding* the President's veto. If the Senate votes to override the veto, then the House of Representatives must override it also. If both houses vote to override the veto, then the bill becomes a law without the President's approval.

## THE LEGISLATIVE BRANCH

### *Powers of Congress*

(See Article I, Section 8)

The Constitution gives the Congress (the House and the Senate) certain specific powers. Among those listed in Section 8 are the powers to tax, borrow money, regulate commerce (trade), and naturalization (the process by which one can become a United States citizen). Also included are the powers to coin money, establish a system of weights and measurements, establish a post office, declare war, and provide a military. These are many of the important powers specifically granted to the Congress.

Article 1, Section 8, Clause 18 is very important to the Congress. It is known as the "elastic clause." The elastic clause gives Congress the power "to make all laws which shall be necessary and proper" to carry out its responsibilities.

The powers given to Congress can be broken down into three areas: *enumerated* powers, *implied* powers, and *inherent* powers.

Enumerated powers are powers specifically given to the Congress by the Constitution. They are written. An example would be the power to declare war.

Implied powers are powers given to the Congress that are general. They are stated, but not enough information is given in the Constitution about details. An example would be: the Constitution in Article 1, Section 8, Clause 7 states, "To establish post offices and post roads." Obviously, more is needed to run the post office than just roads; there are the mail carriers, security, and buildings. The Constitution assumes that the Congress will take care of these matters, too.

Inherent powers are unlisted powers that a government must have simply because it exists as a government and needs to run its affairs smoothly. The best example of this is the need to conduct foreign affairs. The Constitution does not discuss foreign affairs, but because the United States is a country, we must deal with foreign countries diplomatically.

## THE LEGISLATIVE BRANCH

### *Limits on Congress and the States*

(See Article I, Sections 9,10)

We saw in the last lesson what powers the Constitution gave the Congress. Now we are going to look at what the Constitution told the Congress it could *not* do.

First, the Constitution told the Congress it could not make any laws outlawing the slave trade until 1808. This clause deals with the rivalry between the northern and southern states. As you will study, this rivalry erupts into the Civil War in 1861.

The second limitation deals with the legal term known as *habeas corpus*. Habeas corpus literally means "you shall have the body." This right of habeas corpus allows a person to be seen and heard in a courtroom by a judge. If you are to be found guilty or not guilty, you have the right to appear in court. The government cannot take that right away except in cases of rebellion or invasion.

The Constitution outlawed *bills of attainder*. A bill of attainder is a law passed by the government that convicts a person of a crime and punishes them without a trial.

Another limitation set by the Constitution is that Congress cannot. Prior to the Constitution, people were often arrested and jailed without being charged or having a trial. Congress passed *ex post facto laws*. An *ex post facto* law punishes people for a crime that was not a crime when they did it. For example, Mr. Z was smoking a cigarette on his lawn on Monday. On Tuesday, Congress passed a law forbidding smoking in the United States. Wednesday, the police came and arrested Mr. Z for smoking on Monday. When Mr. Z smoked on Monday, it was not a crime. Under the *ex post facto* clause of the Constitution, punishment of Mr. Z is forbidden.

Other limits on Congress are that it cannot tax products from a state, it cannot give preference to any state's seaport, government money can only be spent by passing a law, and finally, Congress cannot issue titles of nobility. That means the Senate or House cannot make people knights, lords, or duchesses.

The Constitution also puts certain limits on the states. First, they cannot make treaties with other countries. Secondly, they cannot coin their own money. Finally, they cannot do the items mentioned in the above three paragraphs.

The powers of government can be put into three categories: *delegated*, *concurrent*, and *reserved* powers. Delegated powers are powers that are given to the national government in Washington, D.C., such as the power to declare war. Concurrent powers are powers that are shared between the national and state governments, such as the power to tax. Finally, reserved powers are powers that only the states have, such as the power to create a school system. It is important to keep these different powers in mind as we discuss the remainder of the Constitution.

## **THE EXECUTIVE BRANCH**

### ***Introduction***

(See Article II, Section 1)

As you have seen, the job of the legislative branch is to make the laws. It is the job of the executive branch to carry out, or execute, those laws. They enforce, or make sure people are obeying, the laws made by the legislative branch.

If the Congress makes it a law that the speed limit should be 70 MPH, then it is the job of the executive branch and its offices to make sure that the citizens of the United States are obeying the speed limit.

The executive branch of the United States is very large today. The head of the executive branch is the President, but many thousands of people work for him. The executive branch handles much of the day-to-day work of the country.

The President is the chief executive, and he is elected for a four-year term. His second-in-command is called the Vice President. They are both elected at the same time.

The President and Vice President are chosen by the electoral college. The electoral college is made up of men and women from the different states. Each state gets a certain number of people, or electors. That number is determined by the total number of representatives and senators a state has. For example, if Illinois has 22 representatives and 2 senators, then Illinois would get 24 electors, or people, to vote for the President.

When we go to the polls in a presidential election, our votes are counted and the electors take those totals and elect the President based on who the people have selected. Since the common people were poorly educated and informed in the early years of our nation, the electoral college was originally established to keep the common people from making a mistake and electing a disastrous leader.

If there is a tie in a presidential election, or no one candidate receives a clear majority, then the House of Representatives, with each state having only one vote, elects the President.

## THE EXECUTIVE BRANCH

### *Qualifications for President*

(See Article II, Section 1)

Just as there were requirements to be a representative or a senator, the Constitution set forth certain requirements to be the President of the United States.

In order to be President, a person must be a natural-born citizen of the United States-not an immigrant. He or she must be at least 35 years old and have been a resident of the United States for at least 14 years.

In the event that the President dies or is unfit to continue as President, there is a detailed line of succession. The Vice President assumes the power of the Presidency first; if he is unable, then the Speaker of the House of Representatives takes over. After him is the president pro tempore of the Senate, then the various Cabinet department heads in order of the establishment of the departments, beginning with the Secretary of State. The 25th Amendment outlines what is done when the President dies or is disabled.

The salary of the President is set by the Congress and does not change during the President's term of office. Currently the salary is \$200,000.

The President and Vice President are elected on the first Tuesday after the first Monday in November. They are sworn in on Inauguration Day, January 20. Usually, the Chief Justice of the Supreme Court is the person who administers the oath of office to the President at the ceremony. The oath of office is as follows:

*"I do solemnly swear(or affirm) that! 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. " "So help me God" is added by the Presidents.*

## THE EXECUTIVE BRANCH

### *Powers and Duties of the President*

(See Article II, Section 2.3)

The job of the President is not an easy one. The Constitution spells out many different responsibilities, powers, and duties of the President and the executive branch. The powers of the President can be put into five categories: Commander in Chief, Chief Executive, Chief of State, Chief Legislator, and Chief of Party.

First, the President is the Commander in Chief of the United States Armed Forces. He is the number one military person in the United States. All decisions regarding the Army, Navy, Air Force, and Marines are the responsibility of the President. He can also call the National Guard (or state militias) from the individual states into the service of the United States.

Secondly, the President is the Chief Executive. To run a country the size of the United States, you need many people doing many things. It is the job of the President as Chief Executive to make sure all of his cabinet, staff, and other employees are doing their jobs correctly.

The President is also the Chief of State. This responsibility was given to the President by the Constitution so that the United States would have one person in charge of all foreign relations. The President represents the United States when he or she travels to other countries. The President also greets and hosts other foreign dignitaries when they visit the United States. The President may also make treaties with other countries, but the Senate must ratify, or approve, the treaty by a two-thirds vote.

Another duty of the President is that of Chief Legislator. We saw in Article 1 how the President had the power to veto laws. The Constitution gives the President the power to approve or disapprove of the laws that Congress is making. He can also suggest that certain laws be made by working with his supporters in the House or the Senate.

Finally, the President is also the Chief of Party. When he is elected President, he becomes the head of his political party, Republican or Democratic. He makes decisions regarding the make-up of his individual political party.

## THE EXECUTIVE BRANCH

### *Impeachment*

(See Article I, Section 3 and Article II, Section 4)

The Constitution also defines the way to remove officials from office when they have failed at their job. This process is called *impeachment*.

To be removed from office by impeachment, a person must be found guilty of *treason*, *bribery*, or other high crimes and *misdemeanors*. By high crimes and misdemeanors the founding fathers meant more serious crimes than a traffic ticket.

In order for the impeachment process to begin, the House of Representatives must believe that an official has committed one of the above mentioned offenses. The House will then come up with a list of charges against the official.

The next step of the process continues in the Senate. The senators act as the jury and hear both sides of the case against the accused official. When it is the President being tried, the Chief Justice of the Supreme Court acts as the judge. Two thirds of the Senate must agree in order for the official to be convicted of the charges and removed from office.

In all of United States history, no President has ever been removed from office by impeachment. Two Presidents, however, have gone through part or all of the impeachment process.

In 1867, President Andrew Johnson was charged with several offenses, and the House voted to impeach him. The Senate held the trial, and when the vote was taken, Johnson escaped being convicted by only one vote!

In 1974, the House of Representatives began to investigate President Richard Nixon and his involvement with the break-in of the Watergate Office Complex in Washington, D.C. By the end of July, 1974, the House had prepared several charges against President Nixon. Instead of letting the impeachment process go any further, Nixon resigned as President on August 9, 1974. Nixon was the first President ever to resign.

## **THE EXECUTIVE BRANCH**

### ***Organization of the Executive Branch and the Cabinet***

(See Article II, Section 2.3)

As we have seen, the executive branch of the United States government is quite large. Let's look now at what makes up the executive branch and the Cabinet.

There are four divisions of the executive branch: the Cabinet departments, independent agencies, government corporations, and regulatory agencies.

While the Constitution did not specifically create the Cabinet, President Washington in 1789 felt he needed advisors. The Cabinet is a group of men and women who are the President's closest advisors. They are each in charge of one of the fourteen departments.. The most important Cabinet departments are the Department of State, Department of Defense, and the Department of the Treasury. Each advisor is given the title of "Secretary." If you were head of the Department of State, for example, you would be known as the Secretary of State. Each department head, or secretary, has many people working under him or her to keep the government running smoothly. Each Cabinet department deals with specific areas of national concern.

Another section of the executive branch overseen by the President is the independent agencies. These agencies are not as important as Cabinet departments, but are essential to the mission of the United States. One example of an independent agency is the National Aeronautics and Space Administration (NASA).

A third category is known as government corporations. These are businesses run by the United States government in order to provide specific services to the people. The United States Postal Service is a government corporation. Another example is the Federal Deposit Insurance Corporation (FDIC), which insures the money that is deposited in banks.

The final division of the executive branch is the regulatory commissions. These groups make sure that the rules set for certain large industries are being followed and that the safety of the public is not in jeopardy. Examples are the Federal Communications Commission (FCC), which licenses radio and television stations, and the Federal Aviation Administration (FAA), which makes sure airports, aircraft, and pilots are safe. As you can see, the President has a great deal of responsibility and a large number of people to oversee to ensure that the government is functioning properly.

## **THE JUDICIAL BRANCH AND ARTICLES IV-VII**

### ***Organization of the Judicial Branch***

(See Article III, Section 1)

The third branch of the United States government is the judicial branch. We learned that the legislative branch makes the laws and that the executive branch carries out and enforces the laws. It is the job of the judicial branch to interpret, or explain, the laws.

When Congress passes a law, and the President enforces it, it is then the job of the Supreme Court to decide what those laws really mean. The Supreme Court is the major body of the judicial branch. The Supreme Court Building is located in Washington, D.C. The Supreme Court is the highest, and most important, court in the United States. The Constitution spells out what kinds of Cases it can hear and what the powers of the Court are. The Constitution also provides for lower courts as well.

The Supreme Court is made up of nine justices, or judges. There are eight associate justices and one chief justice. The justices are appointed by the President and are approved by the Senate. Once approved, they serve for life. They cannot be removed except by impeachment. When deciding a case, only five of the nine must agree to reach a decision. The salaries of the justices cannot be lowered during their time in office. With these checks and balances, the judicial branch is free from interference by the other branches.

There are several other court systems under the Supreme Court. The lowest Federal courts under the judicial system are the district courts. There are 91 district courts in the United States. After a case has been heard in the district court, it moves to the United States Court of Appeals. It is here where a case can be appealed, or heard for a second time, to reverse the original judgment. There are 12 appeals courts.

There are also several other courts that feed into the Supreme Court. The highest court in any state is usually the state supreme court. A case can be appealed from a state supreme court to the United States Supreme Court. The Court of Military Appeals, the United States Tax Court, and the United States Claims Court also feed cases to the Supreme Court. These courts hear specialized cases.

## THE JUDICIAL BRANCH AND ARTICLES IV-VII

### *Cases for the Supreme Court*

(See Article III, Section 2)

The Constitution tells the Federal courts exactly what types of cases they can hear. The Supreme Court only has the jurisdiction, or power to hear cases, that the Constitution gives it. For example, the Supreme Court does not handle divorce cases, but the Constitution says the Court may hear cases involving two or more individual state governments.

The kinds of cases the Federal and Supreme Courts may hear are cases coming from any question involving: 1) the Constitution, 2) Federal laws, 3) treaties, and 4) laws governing ships. The courts may also hear cases coming from people concerning: 1) ambassadors or public ministers, 2) the United States government itself, 3) two or more state governments, 4) citizens of different states, and 5) a state or its citizens versus a foreign country or foreign citizen.

These cases are what are known as *original jurisdiction*. Under *appellate jurisdiction*, the Supreme Court can only hear a case after it has gone through the court system first (the district courts and the appeals courts, or the state supreme court). Only after these lower courts have heard the case can the Supreme Court respond.

If a case has made it through the court system and wishes to be heard by the Supreme Court, the lawyers must submit to the nine justices what is called a *writ of certiorari* (cert). A writ of cert is a formal request to the Supreme Court to hear a case. The justices vote and either accept or reject that request based upon the possible impact of the case on society, or simply because of the large number of cases they have to hear. If a case is decided by the Supreme Court, it has traveled a long way to get there!

## THE JUDICIAL BRANCH AND ARTICLES IV-VII

### *Judicial Review and Treason*

(See Article III, Section 3)

There are two important legal concepts that need to be discussed at this point, the first of which is called judicial review.

We saw in the last lesson what types of powers the Supreme Court has. In 1803, in a case before the Supreme Court, another important power of the Supreme Court was begun. That was the power to declare a law *unconstitutional*, meaning the law goes against the Constitution of the United States.

For example, we know the Constitution states that there should be two senators from each state. If Congress passed a law saying there should only be one senator from a state, the Supreme Court could look at that law and declare it unconstitutional. That means Congress's law is void because the Constitution is more important and is the supreme law of the land. This process of checking the laws is known as *judicial review*. The job of the Supreme Court is to review the laws of our country.

Another concept mentioned by the Constitution is that of *treason*. Treason is defined as carrying on war against the United States and giving help to the nation's enemies. Treason is a very serious crime, and it is one of the charges that may be involved in the impeachment process. In order to be convicted of treason, two witnesses must testify to the same story, and/or the accused must make a confession in a courtroom.

To quickly review, we've seen the three branches of our Federal government. The legislative branch makes our laws, the executive branch carries out our laws, and the judicial branch defines our laws. There are many people who make our laws and help run our country, just as there are many who defend our rights and freedoms as Americans.

## THE JUDICIAL BRANCH AND ARTICLES IV-VII

### *Article IV: The States*

(See Article IV, Sections 1-4)

In the first three Articles of the Constitution, the founding fathers established the physical structure of our government. But there were still other issues to be solved before the Constitution could begin its work. The issues still remaining involved the roles of the states in the new government, how to make changes to the Constitution, and how to get the Constitution approved by the current states.

First, in Article IV, the Constitution addresses the states. Before the Constitution, each state acted individually on many issues. It was like having 13 separate countries with a mediocre friendship. The Articles of Confederation had supported this loose association of states. But by 1787, as we studied earlier, the loose friendship was in trouble.

The Constitution set forth a strong central government. The states were not going to be happy with giving up many of the rights they exercised during the previous years. So, the framers of the Constitution wrote Article IV.

The relationships between the individual states had been tense, so Article IV demanded that each state respect the laws and decisions of the other states. Each state is required to treat citizens of the other states the same way it would treat one of its own citizens. If a person broke a law in Missouri and escaped to Georgia, Georgia would be required to send the criminal back to Missouri. The states must work together and respect each other.

Article IV also provides a way for new states to be admitted into the union. Congress was given the power to admit new states, but no new state could come from the property of an existing state, and no two states could join together to form a larger one, unless both state legislatures and Congress approved.

Finally, Article IV guarantees each state a *republican* form of government. What this means is that each state will always have a government elected by the people and not a monarchy. The Federal government will also defend the states against invasion or attack because the states will no longer have individual militaries.

## THE JUDICIAL BRANCH AND ARTICLES IV-VII

### *Amending the Constitution*

#### (See Article V)

When the founding fathers were writing the Constitution in 1787, they were thinking far into the future. If the Constitution was to become a lasting part of American government, there would have to be room for change. Article V is perhaps the most important part of the Constitution.

Article V provides a way for the Constitution to be *amended*, or changed. The process by which the Constitution can be changed is not an easy one. There are many steps that must be gone through. By making the process a difficult one, the framers hoped to avoid changing the Constitution too quickly. Any change that would be made must be a good one.

There are two ways to propose an amendment to the Constitution. For example, let's say we wish to lower the age requirement to be President from 35 to 30. One way to start the amendment would be to get two thirds of both houses of Congress (House and Senate) to agree. The other way to propose an amendment is through a constitutional convention called by two thirds of the state legislatures.

If our amendment was approved by either of the two above groups, then the amendment must be *ratified*, or formally approved. There are two ways to ratify an amendment: three fourths of the legislatures in the states must ratify any amendment, or three fourths of the states must have individual constitutional conventions to ratify the amendment.

Throughout the past 200-plus years, there have only been 27 changes to the structure of the Constitution. Our founding fathers established a system that was basically sound and problem free. While there are, of course, errors, the United States Constitution is the oldest written constitution in the world. Our Constitution has been the example that many other countries of the world have used to formulate their own governments. We can be proud of that!

## THE AMENDMENTS

### *Introduction*

As you studied earlier, the path to amending the Constitution is a difficult one. Throughout the past 200 years, many, many amendments have been suggested in Congress. Of those, only 27 amendments have become part of the Constitution.

The contents of the amendments are very different. The first amendments deal with rights that many felt should have been included in the main body of the Constitution. These first ten amendments are called the Bill of Rights. Other amendments deal with changes in American society over the years, such as slavery and prohibition. Finally, other amendments change sections of the Constitution.

Below is a chart briefly describing the Amendments:

Amendment	Year Ratified	Description
I	1791	Freedom of religion, press, speech, assembly, petition
II	1791	Right to bear arms
III	1791	Quartering of soldiers
IV	1791	Unreasonable searches and seizures
V	1791	Right of due process of law, no double jeopardy
VI	1791	Right to a public trial, right to a lawyer
VII	1791	Right to a jury trial
VIII	1791	Excessive bail, no cruel and unusual punishment
IX	1791	Rights not listed in the Constitution
X	1791	Rights to the people and states
XI	1798	Lawsuits against states
XII	1804	Presidential/Vice Presidential elections
XIII	1865	Abolition of Slavery
XIV	1868	Former slaves granted citizenship
XV	1870	Black suffrage
XVI	1913	Income tax
XVII	1913	Direct election of senators
XVIII	1919	Prohibition of alcoholic beverages
XIX	1920	Women's suffrage
XX	1933	Lame duck period
XXI	1933	Repeal of prohibition
XXII	1951	Limit of two terms as President
XXIII	1961	Suffrage for District of Columbia
XXIV	1964	Abolition of poll taxes
XXV	1967	Presidential succession
XXVI	1971	Eighteen-year-old vote
XXVII	1992	Limits on Congressional pay raises

## THE AMENDMENTS

### *The Bill of Rights, 1791: Amendments I-III*

#### (See Amendments 1-11)

In 1791, two years after the Constitution went into effect, ten amendments were added to the document. It was felt that the Constitution did not list the rights that should be protected for all Americans. The Constitution assumed that because the powers of the government were specific and limited, a statement of rights was not needed. As the states began to ratify the Constitution in 1787 and 1788, they insisted that a Bill of Rights be added.

The first three amendments guarantee certain individual freedoms that today we cherish as Americans. The First Amendment gives Americans the freedom to choose their own religion. Congress cannot pass a law making any religion the official religion of the United States. Under the First Amendment we are also given the freedom of *speech* (the right to speak out without fear of punishment), freedom of the *press* (the right of newspapers to print whatever they feel is newsworthy without censorship), freedom of *assembly* (the right to gather together in a group), and the right of *petition* (the right to ask the government to change things). People are guaranteed these freedoms so far as they do not take away the freedoms of others. It is the job of the courts to decide where that line is drawn. These basic freedoms have been the subject of many court cases throughout the history of the United States.

The Second Amendment gives American citizens the right to bear *arms*. Arms are weapons or guns. Under this amendment, Americans are allowed to own guns. There is much controversy today surrounding this amendment. What types of weapons should we be allowed to own and use for protection or hunting?

The Third Amendment had its beginning during the French and Indian War and the Revolutionary War. It outlaws the *quartering*, or housing, of soldiers in private houses. Before independence, English soldiers would forcibly move into the homes of Americans. The Third Amendment prohibits this practice in peacetime and authorizes Congress to pass a law concerning quartering of soldiers in wartime.

## THE AMENDMENTS

### *The Bill of Rights, 1791: Amendments IV-VI*

(See Amendments IV, V, VI)

The Fourth Amendment is concerned with searches and seizures. In order to convict a person of a crime, you need to have evidence. Where is the best place to find evidence but in the home or on the person? Before the Constitution, there was no protection against the police or government invading your home or arresting you at any time. The Fourth Amendment outlaws unreasonable searches and seizures. The government must have a *search warrant* in order to search your home. A search warrant is a document issued by a judge to the sheriff for the purpose of getting evidence concerning a crime. An *arrest warrant* is similar, but for the purpose of arresting someone suspected of a crime. The Fourth Amendment protects us from being wrongly arrested or searched.

The Fifth Amendment gives Americans many basic legal protections. First, no one can be tried for a serious crime without an indictment by a *grand jury*. A grand jury is a group of people who decide if there is enough evidence to have a trial. If there is enough evidence, they issue an *indictment*, which is a formal charge, or accusation against a person.

The Fifth Amendment also protects against *double jeopardy*. Double jeopardy is when a person is tried twice for the same crime. The Fifth Amendment says that once a person has gone through a trial and been found innocent, there cannot be another trial later, even if more evidence is found. The government also cannot punish a person twice for one crime. The amendment also protects people from having to witness against themselves. This is called *self-incrimination*.

Also guaranteed by the Fifth Amendment is the right to *due process of law*. Whatever the government does, it cannot take away someone's life, liberty, or property without first going through the proper steps set forth in our laws. Finally, if the government takes property, the owner must be paid a fair price.

In the Sixth Amendment, we are guaranteed the right to a fair, fast, and public trial. People who are accused of a crime also have the right to be present in court and have a lawyer represent them, even if they cannot afford one. The Sixth Amendment protects the rights of the accused.

## THE AMENDMENTS

### *The Bill of Rights, 1791: Amendments VII-X*

(See Amendments VII, VIII, IX, X)

The final section of the Bill of Rights deals with legal rights and also with powers given to the states.

The Seventh Amendment guarantees Americans the right to a trial by a jury in any case involving more than twenty dollars. In today's society there are many lawsuits going through the court system. It is our right to have our case decided by a group of our peers, *a jury*. Or, it is our right to not have a jury and have only a judge decide the case.

The Eighth Amendment protects us from having to pay excessive *bail* or be punished in cruel and unusual ways. Bail is money that is given in order to be released from jail. The money is returned when the accused appears in court for the trial. Protection from paying excessive bail means that one wouldn't have to pay one million dollars to be released from jail for stealing. The Seventh Amendment guarantees the right to a trial by jury. a candy bar! Cruel and unusual punishment is being tortured or punished in ways that are not humane. There are many different opinions as to what is cruel and unusual punishment.

The Ninth Amendment is the "etcetera" amendment. Under this amendment, other rights not listed in the Constitution are also given to the people. The rights in the Constitution are not the only rights Americans have-they are just a few. The Ninth Amendment protects other rights that might not have been listed.

Finally, the Tenth Amendment gives all powers not specifically listed in the Constitution to the states and its peoples. For example, education is not mentioned in the Constitution; therefore, it is the job of the individual states to educate its people. What is not written in the Constitution is given to the states and the people.

The Bill of Rights is an important addition to the Constitution. Without the statement of these rights, certain freedoms like religion, speech, or public trials might have been lost in the passage of time.

## THE AMENDMENTS

### *1798-1870: Amendments XI-XV*

(See Amendments XI, XII, XIII, XIV, XV)

After the Bill of Rights became part of the Constitution, other changes were made by other amendments.

The Eleventh Amendment was added to the Constitution in 1798. Under the amendment, people in one state, or foreigners, cannot sue another state in a Federal court.

The Twelfth Amendment, concerning presidential elections, was ratified in 1804. Before the Twelfth Amendment, the man who received the most votes was the President, and the man with the second most votes was the Vice President. But by the election of 1800, political parties had developed, and it was clear that having two men from different parties was not a good leadership situation. The Twelfth Amendment allowed voters to vote for the President and Vice President on separate ballots so that members of the same political party would not be running against each other for the presidency.

The Thirteenth Amendment was a result of the Civil War. Passed in 1865, the Thirteenth Amendment abolished slavery. Slavery had been a part of the United States since the 1600s, and it took a civil war to end the practice.

The Fourteenth Amendment, ratified in 1868, was part of the Reconstruction Era. Under this amendment, all Americans, regardless of race, were guaranteed the rights listed in the Constitution. This amendment also included blacks in population counts for the census. Finally, the Fourteenth Amendment prohibited Confederate officers from holding government positions and refused to pay Confederate war debts or reimburse owners for their now-freed slaves.

Finally, the Fifteenth Amendment, ratified in 1870, gave blacks *suffrage*, or the right to vote. Before 1870, many states had prohibited blacks from voting. But with the end of the Civil War and the passage of the Fourteenth Amendment, the next step was to give black males the right to vote.

Between 1791 and 1870-eighty years-only five changes had been made to the Constitution. In the next lesson you will study the changes made from 1900 to 1950.

## THE AMENDMENTS

### *1900-1950: Amendments XVI-XXI*

(See Amendments XVI, XVII, XVIII, XIX, XX, XXI)

This next group of amendments was ratified during the first half of the 1900s. This group of amendments also made specific changes to the American system.

The Sixteenth Amendment, ratified in 1913, gave Congress the power to establish an income tax. Before 1913, the only way the government made money was through *tariffs* (taxes on imports). With the Sixteenth Amendment, the government could now tax people's incomes. Each person was taxed according to the amount of money he or she made.

Also in 1913, the Seventeenth Amendment was added to the Constitution changing the way senators were elected. Article I of the Constitution stated that the senators were to be elected by the state legislatures. The Seventeenth Amendment allowed the American people to directly elect their senators, just like other elected officials.

During the first two decades of the twentieth century, a movement in the United States to ban the use of alcohol was gaining strength. Many people saw the "evils of drinking" and felt that the production, sale, and use of alcoholic beverages should be prohibited. So, in 1919, the Eighteenth Amendment was ratified, and the United States entered the *Prohibition* Era.

Another reform movement sweeping the United States during this time concerned women and their right to vote. Previously, American women were not given the right to vote. The Fifteenth Amendment had given black males the right to vote. Women's groups had been fighting since the mid-1800s for suffrage, or the right to vote. In 1920, with the ratification of the Nineteenth Amendment, women were given the right to vote.

The Twentieth Amendment, passed in 1933, changed the dates when elected officials took office. In 1787 when the Constitution was written, travel was very slow, and news traveled even slower. Because of this, the President and Congress were given many months between their elections and the time when they were sworn in. The old officials were known as "lame ducks" because they did not have much time or power left. This amendment shortened the President's "lame duck" period from March 4 to January 20. Congress begins its terms and meetings on January 3.

Finally, also in 1933, the Twenty-first Amendment was passed repealing the Eighteenth Amendment. This amendment ended the Prohibition Era. The Eighteenth Amendment failed because of a lack of enforcement, and too many Americans were opposed to Prohibition.

## THE AMENDMENTS

### *1950-Present: Amendments XXII-XXVII*

(See Amendments XXII, XXIII, XXIV, XXV, XXVI, XXVII)

This final group of amendments focuses on the President and other American civil rights.

The Twenty-second Amendment, ratified in 1951, limited the amount of terms a President could serve. The Constitution did not put a limit on the number of terms a President could serve. President George Washington had only served two terms, or eight years. Because of his example, or precedent, other presidents only served a maximum of two terms. This changed when Franklin D. Roosevelt was elected to a third term in 1940, and a fourth term in 1944. The Twenty-second Amendment limited the President to two terms of office.

Before 1961, citizens of the District of Columbia had no voice in elections, and by the 1960s, the District had a large population that was left out. The Twenty-third Amendment, passed in 1961, gave citizens who lived in the District of Columbia the right to vote in national elections.

In 1964, the Twenty-fourth Amendment was added to the Constitution. Before this amendment, many states would place a tax on voting. In order to vote in an election, you would be forced to pay a poll tax. This amendment prohibited the poll tax.

With the assassination of President Kennedy on November 22, 1963, the nation was made more aware of who takes over in the event of an emergency. Lyndon Johnson, Kennedy's Vice President, took over as President, but there was no Vice President to take over in the event Johnson died. The Twenty-fifth Amendment, passed in 1967, allowed the new President to appoint a Vice President. The Congress would have to approve of this new Vice President by a majority vote of both houses. If a President becomes ill, he may temporarily give his powers to the Vice President until he has recovered. This amendment was used in 1973 and 1974 with the resignations of Vice President Agnew and President Nixon. Nixon appointed Gerald Ford to replace Agnew in 1973, then Ford became President in 1974 when Nixon resigned, and he appointed Nelson Rockefeller to be Vice President.

The Twenty-sixth Amendment, ratified in 1971, was aimed at the young people of the United States. Many Americans felt that the voting age should be lowered from 21 to 18. So, in 1971, 18-year-olds were given the right to vote.

The final amendment to the United States Constitution was ratified on May 7, 1992. The Twenty-seventh Amendment tells senators and representatives that any changes in their salaries will not take effect until after the next election. This amendment was originally part of the Bill of Rights of 1789, but was not ratified along with the others. It was not until 1992 that it became part of the Constitution!