

MIRACLE AT PHILADELPHIA – Topic 2

The U.S. Constitution
Article I, Legislative Branch

Thoughts on Constitutions

A Constitution describes the basic rules that create and control government; it provides a framework for government – similar to a corporation’s Articles of Incorporation – what is its purpose, what can government do, what is it prohibited from doing, how is it organized, ie what people can act for it and how.

Madison wrote of governments: “If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and then, in the next place, oblige it to control itself.”

Historically, two approaches for restraining government: create a governmental architecture designed to divide power and introduce obstacles to governmental action, or place certain rights of the people beyond the reach of government. Our Constitution, particularly after the addition of the Bill of Rights, does both.

Edmund Randolph, delegate from VA (and Governor) called the U.S. Constitution a “fundamental constitution”; only essential principles should be inserted, lest government be clogged by permanent, unalterable provisions which ought to be shaped to later times and events. Simple, precise language should be used and none but general propositions stated “for the construction of a constitution of necessity differs from that of a law.”

Constitution of the United States

Preamble

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

Preamble

The preamble to the US Constitution sets out the basic purposes of the government – largely aspirational. It also makes clear that government only has the powers delegated to it – the principle of delegated authority: government is subject to the law, not the other way around (remember Magna Carta and its progeny).

The government formed in 1789 was (and still is) a compound republic. Power is divided between the Nation and the States. The states are influential in determining national leadership – legislators chosen at the state level, and the President and Vice President elected by electors chosen at the State level as well.

The national government is limited to the powers “herein granted” with the rest reserved to the States and to the people. Yet the **Supremacy Clause (Article VI, Clause 2)** provides that federal law is supreme over state law where there is a conflict.

“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.”

US Constitution of 1787

ARTICLE I

Legislative Branch

ARTICLE II

Executive Branch

ARTICLE III

Judicial Branch

ARTICLE IV

Full Faith and Credit, Equal Protection, Fugitive Slave Provision, Admission of New States,
Administration of Territories, Protection of the States

ARTICLE V

Amendment of Constitution

ARTICLE VI

Supremacy, Oath to Support Constitution, No Religious Test

ARTICLE VII

Ratification

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.

Viewed by the draftsmen as the most powerful branch. Article I encompasses one half of the entire original Constitution.

Bicameral, like parliament, with a lower house acting as repository for the people, and an upper house consisting of knowledgeable and wise leaders serving as a moderating influence on the whims of the people.

Article I

Section 2 *[The House]*

Clause 1

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature. *[Delegates could not agree on who should vote, so they left it up to the States, as later modified by post Civil War amendments. Initially in most states limited to free white men; many states initially required land ownership; by the 1820s, most states granted voting rights to all free white males. Beginning after the Civil War, additional limitations on States' authority to determine electors were enacted by Congress.]*

Article I

Section 2 Clause 1 (Amendments)

- Amendment XV: The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude. (1869; Ratified 1870)
- Amendment XIX: The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of sex. (1920)
- Amendment XXIV: The right of citizens ... to vote ... 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. (1964)
- Amendment XXVI: The right of citizens... who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or any State on account of age. (1971)

Article I

Section 2 Clause 2

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

What is a citizen?

Amendment XIV, 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.... (1868)

Article I

Section 2, Clause 3

- Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years [*the Census*], 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.
- **Amendment XIII: 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. (1865; Ratified 1865)**

Amendment XIV

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.**

Richardson v. Ramirez (1974)

In 1972, Abran Ramirez, who had previously been convicted of a felony in California, was refused voter registration by the San Luis Obispo County clerk, on grounds that he had been convicted of a felony, under a provision of the California constitution. Ramirez brought a class-action lawsuit against the California Secretary of State (Jerry Brown), challenging the state constitutional provision which permanently disenfranchised anyone convicted of an "infamous crime", unless the right to vote was restored by court order or executive pardon.

Generally, in voting rights cases, states must show that a voting restriction is **necessary to a "compelling state interest,"** and is the least restrictive means of achieving the state's objective. In this case, the plaintiffs argued that the state had no compelling interest to justify denying them the right to vote. The California Supreme Court held that the challenged provision was unconstitutional. On appeal, however, the U.S. Supreme Court said that a state does not have to prove that its felony disenfranchisement laws serve a compelling state interest.

Opinion of the Court (Rehnquist, joined by Burger, Stewart, White, Blackmun, Powell): Section 2 of the XIVth Amendment reduces a state's representation in Congress if the state has denied the right to vote for any reason "except for participation in rebellion, or other crime," thus distinguishing felony disenfranchisement from other forms of voting restriction. Those other restrictions must be narrowly tailored to serve compelling state interests in order to be constitutional. Such is not the case with felony disenfranchisement, according to the Court.

Dissent (Marshall joined by Brennan and Douglas): "Our laws are not frozen into immutable form; they are constantly in the process of revision in response to the needs of a changing society. The public interest, as conceived by a majority of the voting public, is constantly undergoing reexamination... The disenfranchisement of ex-felons had its origin in the fogs and fictions of feudal jurisprudence and doubtless has been brought forward into modern statutes without fully realizing either the effect of its literal significance or the extent of its infringement upon the spirit of our system of government."

Article I

Section 2, Clauses 4 and 5

4. When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.
5. The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Article I

Section 3 *[the Senate]*

Clauses 1- 3

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

Amendment XVII, Clause 1: The senate ... shall be composed of two Senators from each State, elected by the people thereof... (1912; Ratified 1913)

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

Amendment XVII, Clause 2: When vacancies happen... the executive authority of such State shall issue writs of election to fill such vacancies; provided that the legislature of such state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election... (1912; ratified 1913)

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

Article I

Section 3, Clauses 4 - 7

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

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

6. The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. [*“Do you solemnly swear that in all things appertaining to the trial of the impeachment of Donald John Trump, president of the United States, now pending, you will do impartial justice according to the Constitution and laws, so help you god?”*] 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.

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

Article I

Section 4

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

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

- **Amendment XX:** 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. (1933)[*Reduced lame duck period for both elected branches; Provides January 20 inauguration date*]

Article I

Section 5

1. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.
2. Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.
3. Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.
[www.congress.gov/congressional-record]
4. Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Article I

Section 6

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

- **Amendment XXVII:** No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of representatives shall have intervened.
(First proposed 1789; Ratified 1992)

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

Article I

Section 7

1. *[Power of the Purse]* 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.

2. *[How a Bill Becomes a Law]* 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. *[School House Rock]*

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

Article I

Section 8 [*Enumerated Powers*]

Clauses 1 - 3

1. 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;
2. To borrow Money on the credit of the United States;
3. [*Commerce Clause*] To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes; [*shipment of goods, interstate highways, business activities across state lines, environmental protection, consumer protection, occupational safety*]

Commerce Clause: *Gibbons v. Ogden*

In 1824 Chief Justice John Marshall declared, in *Gibbons v. Ogden*, that “commerce” encompasses not merely “traffic”—“buying and selling, or the interchange of commodities”—but also all forms of commercial “intercourse,” including (in the case at hand) navigation....If, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government, having in its Constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States.... The word “among” means intermingled with. A thing which is among others, is intermingled with them. Commerce among the States, cannot stop at the external boundary line of each State, but may be introduced into the interior ... Comprehensive as the word “among” is, it may very properly be restricted to that commerce which concerns more States than one”.

Civil Rights Act of 1964

- Title I – Barred unequal application of voter registration requirements.
- Title II – Outlawed discrimination based on race, color, religion or national origin in public accommodations
- Title III – Prohibited state and local governments from denying access to public facilities on grounds of race, color, religion or national origin
- Title IV -- Enforced desegregation of public schools and created federal remedy
- Title V – Expanded and further empowered the Commission of Civil Rights established by the Civil Rights Act of 1957
- Title VI – Prevents discrimination by programs and activities that receive federal funds on the basis of race, color religion or national origin
- Title VII - Equal Employment Opportunity, Prohibiting discrimination by covered employers on basis of race, color, religion, sex or national origin
- Title VIII – Registration and Voting Statistics
- Title IX – Intervention and Removal of Cases from State to Federal Courts
- Title X – Creation of Community Relations Service, tasked with assisting in community disputes involving claims of discrimination
- Title XI -- Miscellaneous

Commerce Clause: Cases

The Civil Rights Act of 1964 relied on the commerce clause to prohibit racial discrimination in public accommodations involved in interstate commerce. In *Heart of Atlanta Motel v. U.S.*, the Supreme Court said:

“The power of Congress to promote interstate commerce also includes the power to regulate the local incidents thereof...which have a substantial and harmful effect upon that commerce.”

U.S. v. Lopez (1995) the first US Supreme Court case since the New Deal to set limits on Congressional power under the Commerce Clause. The Supreme Court held that the federal Gun-Free School Zones Act of 1990, which banned possession of handguns near schools, was unconstitutional because it did not have a substantial impact on interstate commerce.

“For nearly a century after ... [*Gibbons*] the Court’s Commerce Clause decisions dealt but rarely with the extent of Congress’ power and almost entirely with the Commerce Clause as a limit on state legislation that discriminated against interstate commerce.”

After the *Lopez* decision, the act was amended to specifically only apply to guns that had been moved via interstate commerce

Article I

Section 8, Clauses 4 - 9

4. To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States; *[A source of plenary federal power over immigration, along with Federalism and Commerce Clause]*
5. To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;
6. To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;
7. To establish Post Offices and post Roads;
8. To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries *[patents and trademarks]*;
9. To constitute Tribunals inferior to the supreme Court *[Federal Court System, Subject to Article III]*;

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.

Article I

Section 8, Clauses 10 – 16 [*War Powers*]

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

11. To declare War, grant Letters of Marque and Reprisal [*Government license to privateers to attack and capture enemy vessels in time of war*], and make Rules concerning Captures on Land and Water;

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

13. To provide and maintain a Navy;

14. To make Rules for the Government and Regulation of the land and naval Forces; [*Uniform Code of Military Justice*]

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

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

[But President is Commander in Chief]

Article I

Section 8, Clause 17 [*D.C. and Federal Installations in States*]

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

Article I

Section 8, Clause 18 [*Necessary and Proper Clause*]

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.

A source of controversy between Broad Constructionists and Strict Constructionists as to how broad this additional grant of power to Congress actually is. Hamilton argued that it meant “needful”, “useful”, or “conducive to”; Jefferson and Madison argued it meant “absolutely necessary”.

McCulloch v. Maryland (1819)

Opinion of the Court by Mr. Chief Justice Marshall (unanimous)

Facts: Congress passed an act incorporating the Bank of the U.S. and opened a branch in Maryland. Maryland passed a state law that would impose a tax on the federal Bank in Maryland. The Bank refused to pay the tax and a lawsuit followed. The State argued that Congress exceeded its Constitutional authority in creating the Bank – no express authority to do so. Both the trial court and Maryland Court of Appeals found for the state. McCulloch appealed to the United States Supreme Court.

The Court found that the act to incorporate the Bank of the United States was a law made in pursuance of the Constitution, and thus a part of the supreme law of the land, relying on powers granted in Art I Section 8 relating to finance and economic issues, Necessary and Proper Clause, and Supremacy Clause.

McCulloch v. Maryland (1819)

Opinion of the Court

We admit, as all must admit, that the powers of the Government are limited, and that its limits are not to be transcended. But we think the sound construction of the Constitution must allow to the national legislature that discretion with respect to the means by which the powers it confers are to be carried into execution which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are Constitutional.

Should Congress, in the execution of its powers, adopt measures which are prohibited by the Constitution, or should Congress, under the pretext of executing its powers, pass laws for the accomplishment of objects not entrusted to the Government, it would become the painful duty of this tribunal, should a case requiring such a decision come before it, to say that such an act was not the law of the land. But where the law is not prohibited, and is really calculated to effect any of the objects intrusted to the Government, to undertake to inquire into the degree of its necessity would be to pass the line which circumscribes the judicial department and to tread on legislative ground.

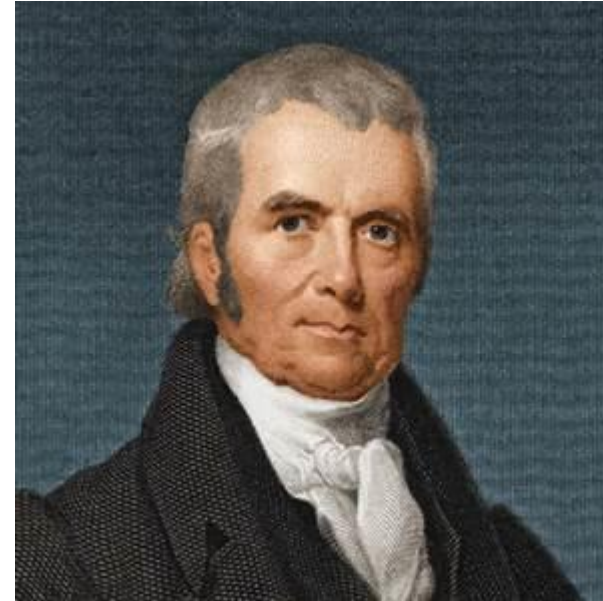
Chief Justice John James Marshall

Born 1755 in Virginia, British America

Surveyor; Lieutenant in VA Militia 1776-1780; attended College of William and Mary; read law under George Wythe; admitted to VA bar in 1780

VA House of Delegates and other state offices; US Congressman from Virginia (Federalist) 1799-1800; US Secretary of State (4th) 1800-1801, appointed by John Adams; Chief Justice of US Supreme Court (4th) 1801-1835, nominated by John Adams

Died **1835** in Philadelphia, Pennsylvania



Article I

Section 9 *[Limitations on Congress]*

Clauses 1 - 4

1. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person. *[International Slave Trade, abolished by Congress in 1808; 1788 – 1808, approximately 200,000 African slaves imported into United States]*
2. The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it. *[A court order addressed to the custodian of an imprisoned person demanding the prisoner be brought before the court, and that the custodian present proof of authority, allowing the court to determine whether the custodian has lawful authority to detain the prisoner. Suspended by Lincoln and GW Bush]*
3. No Bill of Attainder or ex post facto Law shall be passed. *[Basic English right]*
4. No Capitation, or other direct, Tax shall be laid, [unless in Proportion to the Census or enumeration herein before directed to be taken.](#) *[Part of compromise with Southern states to protect slave economy]*
 - **Amendment XVI: 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.** (1909; Ratified 1913)

Article I

Section 9, Clauses 5 - 7

5. No Tax or Duty shall be laid on Articles exported from any State.
[Compromise to protect interests of Southern States whose economies were centered on agricultural exports]

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

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

Article I

Section 9, Clause 8

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

Emoluments

- Emolument: a salary, fee, or profit from employment or office:
 - "the directors' emoluments"
 - synonyms: salary, pay, payment, wages, earnings, allowance, gift .
- Federalist No. 22
 - "One of the weak sides of republics, among their numerous advantages, is that they afford too easy an inlet to foreign corruption."
- The prohibition against officers receiving a present or emolument is essentially an antibribery rule to prevent influence by a foreign power.

Article I

Section 10 [*Powers prohibited to States*]

1. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.
2. No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its 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.
3. No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Bibliography

- SCOTUSBLOG.COM