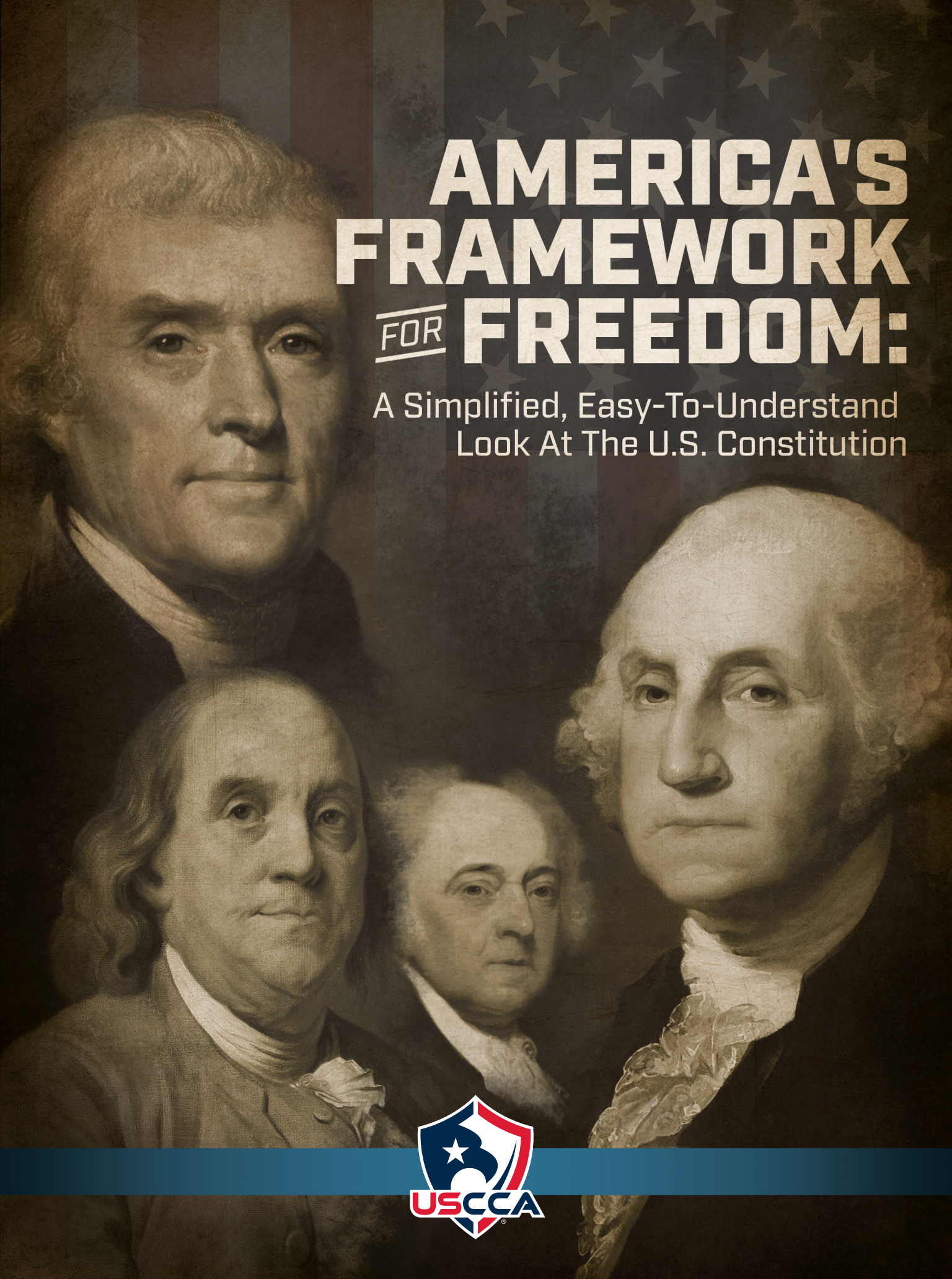




AMERICA'S FRAMEWORK FOR FREEDOM:

A Simplified, Easy-To-Understand
Look At The U.S. Constitution



DISCLAIMER

More than 200 years after our nation's Founding Fathers framed the Constitution, the supreme law of our country is still subject to great debate. Two centuries of constitutional law and Supreme Court decisions help provide a roadmap to today's application of the document, but it remains a divisive topic. This document is meant to serve as a guide to interpreting the Constitution of the United States of America. The opinions within are those of the author and do not necessarily represent the views or opinions of Delta Defense, LLC; the USCCA; or the editor. The text is for informational purposes only and is not meant to serve as legal advice.

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The Declaration of Independence

JULY 4, 1776

When in the Course of human events, it becomes necessary for one people

Conditions have compelled the one people (the citizens) of the 13 Colonies (individually, but standing united)

to dissolve the political bands which have connected them with another,

To sever government control exercised by England and declare their independence.

and to assume among the powers of the earth, the separate and equal station

The “one people” make known that, as an independent and sovereign nation, they are granting to themselves equal ranking among other nations.

to which the Laws of Nature and of Nature’s God entitle them,

And, as a nation of equal standing, the “one people” are securing for themselves all that the Laws of Nature (physical boundaries such as rivers, oceans, etc.) provide and all that Nature’s God (the God or gods of all) grants them as a free and independent people of a free and independent nation.

a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

The “one people,” believing themselves to be honorable, make this declaration with reasons, rather than using other means, such as a declaration of war.

We hold these truths to be self-evident,

This line and the following clause are most likely the least understood and most overlooked of all of the decrees that form the very foundation of this country. Here is the crowning definition of the United States of America, its people and what they stand for: Because of oppressive treatment at the hands of the English, the new nation wanted it to be clear that certain “truths” (indisputable facts) are “self-evident” (should be known and recognized by all).

that all men are created equal,

The first of these obvious known-by-all, indisputable facts is the truth that every person is born equal to every other person. Having royal blood or being born into a higher social or economic class or station in life gives no advantage or confers no power over persons born of more common parentage. At the time, slaves were not considered citizens. that they are endowed by their Creator with certain inalienable Rights, Not only are all persons born of equal status but each, upon birth, is endowed (granted, provided) by “ their Creator” (God, Jehovah or whatever supreme power the citizen recognizes) with certain inalienable rights (guarantees that cannot be taken away).

that among these are Life, Liberty and the pursuit of Happiness.

That among these (meaning that these are not the only inalienable rights) are life (the right to live), liberty (freedom from a tyrannical government) and the pursuit of happiness (the right to lead a life of your choosing, such as the right to worship as you believe).

Some other inalienable rights are:

- The right to be presumed innocent until proven guilty.
- The right to own personal and real property.
- The right to be left alone.
- The right to protect yourself, your property and your family.
- The right of inheritance and bequeathal.
- The right to live where you choose.

Those who framed the Constitution felt so strongly about these unlisted “ inalienable rights” that they made certain to include them in the Bill of Rights (see the 9th Amendment).

That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

To secure (protect) these (aforementioned) rights, government (and its laws) is necessary, but only with the consent (free elections) of the “one people.”

That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

And if the government becomes destructive (oppressive or not performing in the best interest of the “one people”), then the “one people” have the right to alter (change) or abolish (do away with) or institute (establish) a new government.

Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed.

The writers, with this sentence, concede that citizens will endure mistreatment up to a point rather than rebel against a familiar government and acknowledge that changing any form of government is a most serious matter and not to be taken lightly.

But when a long train of abuses and usurpations, pursuing invariably the same object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.

However, the “one people,” after being subjected to easily demonstrable abuses and usurpations (acts displacing the legitimate power of local government) that are forcing them to live under despotism (a political system dominated by an absolute ruler — a tyrant), now proclaim their right to provide new safeguards (protections, such as a constitution and the rule of law).

Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

Up until this point in the Declaration, the framers had been talking in generalizations. With this paragraph, the wording becomes more specific. Now the despot is named and the “facts” (complaints and reasons for this Declaration of Independence) are to be introduced. The “he” is King George III, King of England at the time.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained, and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the meantime exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, Standing Armies, without the consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil power.

He has combined with others to subject us to a jurisdiction foreign to our Constitution and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For quartering large bodies of armed troops among us; For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States;

For cutting off our Trade with all parts of the world;

For imposing Taxes on us without our Consent;

For depriving us in many cases of the benefits of Trial by Jury;

For transporting us beyond Seas to be tried for pretended offences;

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies;

For taking away our Charters, abolishing our most valuable Laws and altering fundamentally the Forms of our Governments;

For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated Government here by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns and destroyed the lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to complete the works of death, desolation and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

Most of these complaints (“ facts”) are the basis for the principles and controls that became the Constitution of the United States and of the Bill of Rights as appended to the Constitution.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms. Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.

The “ one people” are telling the world that they had tried to discuss (repeated petitions) their problems with the King but were punished for their efforts.

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connections and correspondence.

In addition, the writers make known they have expounded on their unfair treatment to their fellow citizens in England by appealing to the commonality of their British heritage.

They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

Because their fellow British commoners have ignored their pleas, the “one people” are advising them they will be treated no differently than anyone else in the world — friends in peaceful times and enemies if at war.

We, therefore, the Representatives of the United States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by the authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

The “one people,” through their representatives who are meeting in a general congress, are declaring to the world at large that the people of the Colonies are now free and independent states (countries) and all allegiance to England is dissolved. Further, this final paragraph signifies a new alliance among these independent states inasmuch as their citizens have agreed to a mutuality pact. They pledge their lives, fortunes and honor to uphold their declaration of independence.

Signed by 56 representatives of the United States:

Georgia:

Button Gwinnett
Lyman Hall
George Walton

William Paca
Thomas Stone
Charles Carroll of Carrollton
Samuel Adams
John Adams
Robert Treat Paine
Elbridge Gerry

John Morton
George Clymer
James Smith
George Taylor
James Wilson
George Ross

John Witherspoon
Francis Hopkinson
John Hart
Abraham Clark

North Carolina:

William Hooper
Joseph Hewes
John Penn

Virginia:

George Wythe
Richard Henry Lee Thomas
Jefferson Benjamin Harrison
Thomas Nelson
Jr. Francis Lightfoot
Lee Carter Braxton

Delaware:

Caesar Rodney
George Read
Thomas McKean

New Hampshire:

Josiah Bartlett
William Whipple
Matthew Thornton

South Carolina:

Edward Rutledge Thomas
Heyward Jr. Thomas
Lynch Jr. Arthur Middleton

New York:

William Floyd
Philip Livingston
Francis Lewis
Lewis Morris

Rhode Island:

Stephen Hopkins
William Ellery

Massachusetts:

John Hancock

Pennsylvania:

Robert Morris
Benjamin Rush
Benjamin Franklin

New Jersey:

Richard Stockton

Connecticut:

Roger Sherman
Samuel Huntington
William Williams
Oliver Wolcott

Preamble to the Constitution

OF THE UNITED STATES OF AMERICA

Author's Preface

The Constitution begins with a preamble — a statement of purpose. Those who wrote the Constitution wanted to make sure future generations understood and didn't lose sight of their intentions. Having just survived a hard-fought war to free themselves from a dictatorial and uncompromising government, the framers of this guiding principle of a new way of life set forth in the Constitution were adamant in their resolve that their meaning would not be misinterpreted.

Our Constitution is unique inasmuch as it keeps the playing field level for the four players in all of the games of life. The four players are: the governed (citizens), those who make the laws (legislative branch), those who enforce the law (executive branch) and those who mediate (judicial branch). Each group is independent and at the same time dependent upon all of the others. This intra-dependence creates a check and balance so that one entity is never in a disadvantaged position. At least that's the way it's supposed to work.

There are four functions of our Constitution:

- 1.** To provide the tools to establish and manage a national government (Articles I, II, III and VI as well as Amendments 12, 16, 17, 20, 22, 23 and 25).
- 2.** To control the relationship between the national government and the governments of the states (Article I, Sections 8 and 10; Article III, Section 2; Article IV; and Amendments 10, 11, 18 and 21).
- 3.** To allow for adjustments in the Constitution to correct inadequacies or changing times (Article V).
- 4.** To protect and preserve fundamental personal rights and liberties (Article I, Section 9; and Amendments 1-10, 13, 14, 15, 19, 24 and 26).

There are two functions of the federal government:

- 1.** To carry out the purposes and mandates as laid out in the Constitution.
- 2.** To perpetuate itself. The government (in reality, its employees) must constantly be doing something so as not to seem dysfunctional and useless. If an elected official, bureau or administrative branch doesn't continue to create new legislation, rules or controls, it fears voters will consider it unneeded and thus soon they will be unemployed.

We the people of the United States,

This simple beginning signifies that this new government is an entity — not of states but of people. This differentiates it from the earlier form of government (Articles of Confederation, 1781-1788) where the states, in and of themselves, retained independence, freedom and

sovereignty. The new Constitution introduced a new nation that derived its powers from the consent of the governed in states that had chosen to unite.

in order to form a more perfect union,

This is the first of the six important reasons for writing the Constitution. The “ more perfect union” refers to the new government being more perfect than the previous government under the Articles of Confederation. The new union, its 13 member states having united, would be stronger and better than 13 individual countries.

establish justice,

Having suffered under the tyrannical control of the King of England, one of the colonists' first orders of business was the establishment of uniform, fair and equitable laws that would be applied equally to all citizens.

Ensure domestic tranquility, To settle our own internal disputes (as opposed to relying upon a King or court located in a foreign land).

provide for the common defense,

After we were free of the English, it was obvious that our own army and navy would be needed to protect, from foreign attack, the states that had united.

promote the general welfare,

Now the people could focus on raising their standard of living without having to pay the King his excessive taxes.

This clause has been interpreted to mean the federal government has the right to use public money to feed, clothe, evacuate, repair and/or provide money to victims of natural or other disasters. It is not a function of the federal government to respond to natural or other disasters with food, water, shelter, evacuation, etc. Nowhere in the Constitution is it allowed, much less required, that federal money (taxes) or employees (military troops, et al) be used to “ help” victims of disasters such as witnessed in plane crashes, hurricanes

or similar catastrophic events. Other than providing troops to maintain law and order, under martial law, there is no justification or expectation that our federal tax money be utilized for any of these services or monetary payments (see No. 2 below, under Functions of Government).

This is not to say any, some or all government assistance could not be offered to those who suffer significant misfortune, but to do so requires a change in the Constitution — an amendment to specifically authorize such expenditures.

The Preamble to the Constitution mentions “ General Welfare” as a goal of forming a more perfect union, not promising to insure and ensure a perfect life for everyone. The Constitution then spells out exactly what powers, duties and controls this “ more perfect union” has in attaining these goals. There is no empowerment, obligation or requirement mentioned in this, our rule of law, to feed, clothe, evacuate and/or conduct any other “ general,” much less specific, welfare.

If the good people of America wish for its funds to be spent in such a way, perhaps it is time to consider a constitutional amendment to cover these acts. But, until then, it is the sole responsibility of the individual states (see 10th Amendment) to decide if and how they wish to protect and care for their citizens. If you live in a state, or one of its political subdivisions, that is so incompetent as to leave you stranded during a catastrophic event, perhaps it's time to move or replace your elected officials, but your hardship is not the fault or obligation of the federal government.

and secure the blessings of liberty to ourselves and our posterity,

The sixth of the principle reasons for establishing a new nation; it clearly shows the intent for the people and their descendants to be free now and forever.

do ordain and establish this Constitution for the United States of America.

This is the unambiguous declaration that this Constitution, a supreme body of laws and the institutionalization of the rule of law, shall be the authority for the government of the USA.

Articles of the Constitution

OF THE UNITED STATES OF AMERICA

Author's Preface

Having survived a civil war, two world wars, economic depressions and even flagrant violations of its meaning, our Constitution, as the guiding principle of a free people, has survived for more than 200 years. It is only by sticking with the clear intent of our most sacred document that we can continue as a free nation for the next 200 years and beyond. However, its survival — our survival — is tenuous because many in our society, well intentioned or not, have worked, and do work, to usurp or ignore its principles, edicts and mandates. Liberals hold that the Constitution is a living-breathing document inasmuch as it is subject to change as times change and that its change should be at the will of the people via executive order, court decree or legislative action. Conservatives hold that the Constitution must be interpreted to the original meaning — what the Founding Fathers believed. This is not to say Conservatives don't accept changes in the Constitution — only that any changes must be according to the document itself. In other words, changes can only be made by amendments to the Constitution.

Court cases (except to make a point) have been omitted for the obvious reason that just because a judge or a group of judges issues a definition of some law or rule, that doesn't make it right or correct. Judges are no more or less human than the rest of us and, as such, have, in some instances, yielded to political correctness at the expense of constitutional correctness. The most horrifying examples of judicial wrongs can be found in the unconscionable Dred Scott decision of 1857 in which the Supreme Court ruled that African Americans are not citizens, or in the equally infamous 1896 decision upholding racial segregation (*Plessy v. Ferguson*).

Contrary to what some have declared, we are not a nation of laws; we are a nation of constitutions. Laws, court decrees and executive orders are subservient to a constitution.

It is hoped the reader will gain a working understanding through this annotation and be active in preventing future constitutional violations, encroachments and trespasses.

ARTICLE I

The Legislative Branch

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.

The meaning is clear that only Congress can make laws. Executive orders (decrees issued by the President) or bureaucratic provisions (not authorized by Congress) that result in punitive measures are in violation of this article.

ARTICLE I, SECTION 2

The House of Representatives shall be composed of members chosen every second year by the people of the several States,

A term of two years is set for each representative — and it's established that the people shall elect him or her.

and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

Each state is allowed to set the standards for what constitutes a qualified voter. These qualifications have become uniform to most states and now include: must have U.S. and state citizenship, must be at least 18 years of age and must be registered (name and address on an official list of qualified voters). Some states now require a photo ID.

No person shall be a Representative who shall not have attained to the age of twenty-five years, and have 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.

To be a member of the House of Representatives a person must: 1. Have reached the age of 25 years; 2. Have been a citizen of the U.S. for at least seven years; and 3. At the time of being elected, be a citizen of the state he is elected to represent.

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.

This is the infamous “three-fifths of a person” clause where slaves were deemed to be only three-fifths of a person. This clause was changed by the 14th and 16th Amendments.

The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct.

The number of representatives is proportional to the census of the country. This census must be taken every 10 years.

The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative;

The number of representatives each state is entitled to have is determined by and adjusted by the number of persons living in the state as reflected by actual census. The ratio of representatives to citizens is one representative for every 30,000 state citizens. However, each state is entitled to

at least one representative even if that state doesn't have a total of 30,000 citizens.

and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse [sic] 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.

Applied only to the early House membership before complete ratification of the Constitution by the states.

When vacancies happen in the Representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies.

If a member of the House dies, resigns or is otherwise removed from office, the governor of his/her state shall hold a special election to fill the empty post.

The House of Representatives shall chuse [sic] their Speaker and other officers;

The speaker of the House (presiding officer, leader, chairman) conducts the meetings. Other officers include: clerk (keeps the records); parliamentarian (sees that proper rules of order are complied with); chaplain; and sergeant at arms (removes unauthorized or unruly persons at the order of the House).

and shall have the sole Power of Impeachment.

The House has the exclusive power to bring charges (formal accusation — impeachment) of wrongdoing by a public official that could result in his/her being removed from office. A majority vote of the House of Representatives is necessary to impeach an official.

ARTICLE I, SECTION 3

The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof,

Changed by the 17th Amendment. For more than 100 years, the legislative branch of each state, not the individual citizens, selected the U.S. Senators.

for six years; and each Senator shall have one vote.

Senators are to be elected to six-year terms, and each Senator is entitled to one vote as opposed to one vote per state.

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 the third class at the expiration of the sixth year,

Applied only to the first Senate.

so that one-third may be chosen every second year;

By having no more than a third of the Senate up for election at one time, a continuity is ensured. In other words, there will never be less than at least two-thirds experienced Senators.

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.

Changed by the 17th Amendment.

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

The qualifications to become a U.S. Senator are: 1) A minimum age of 30 years; 2) A citizen of the U.S. for at least nine years; and 3) A resident of the state in which he/she is elected at the time he/she is elected.

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

Unlike the House of Representatives, whose members elect their own chairman, the vice president presides over the Senate. However, the V.P. cannot vote except to break a tie.

The Senate shall chuse [sic] their other officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the Office of President of the United States.

The other officers, similar to the House of Representatives, include a chaplain, sergeant at arms, clerk and secretary. The president pro tem acts as the chairman of the Senate when the vice president is absent or in the event he assumes the office of President of the U.S.

The Senate shall have the sole power to try all Impeachments.

Only the House of Representatives can bring charges (accusations) of impeachment and only the Senate has the power to determine the validity of these charges.

When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no person shall be convicted without the concurrence of two thirds of the members present.

Those senators taking part in this trial must be sworn, and in the case of an impeachment trial of the President of the United States, the chief justice (head judge of the Supreme Court) shall preside over the trial. Impeachment (removal from office) requires a two-thirds majority vote for conviction.

Judgement in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office or honor, trust, or profit under the United States:

This means that anyone convicted of an article of impeachment cannot be imprisoned, fined or have any property confiscated. The only punishment allowed is that of removal of office and a bar against holding any other public office, elected or appointed.

but the party convicted shall nevertheless be liable and subject to indictment, trial, Judgement and punishment, according to law.

The clause makes it clear that although one convicted of an article of impeachment cannot be punished beyond removal and barred from future office, the impeached can still be tried under the appropriate criminal and/or civil statutes.

ARTICLE I, SECTION 4

The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing [sic] Senators.

For the sake of uniformity, Congress reserved the right to set the standards for holding elections. One fundamental change was the establishment of districts for the election of members of the House. Prior to 1842, representatives were elected “at large,” thus giving an unfair advantage to heavily populated portions of a state. Primary elections do not fall under this section, as a primary does not directly affect the manner of holding the election.

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.

The 20th Amendment changed the date to the third day of January.

ARTICLE I, SECTION 5

Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance or absent members, in such manner, and under such penalties as each House may provide.

The Senate, as well as the House, is empowered to certify the elections, returns and qualifications of its own members. A simple majority of the respective members is all that is needed to conduct official business (a quorum). However, if there are

not enough members to make a quorum, each house is authorized to force members to attend and/or punish non-attendees.

Each House may determine the rules of its proceedings, punish its members for disorderly behavior and, with the concurrence of two thirds, expel a member.

The power of each body of Congress to force its members to comply with its rules is found here. Both the House and Senate, using whatever means the body determines, can set its rules of order and punish its members who act in a disorderly manner. Punishment, by a two-thirds majority vote, can range up to expulsion.

Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgement 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.

Today, everything said or done in either House is recorded in the Congressional Record. This official journal is published each day Congress is in session. With a vote of as few as one-fifth of those present, the journal will note how each member voted in regard to any measure.

Neither House, during the session of Congress, 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.

Because both houses must work closely together, it is imperative that one be available to the other.

ARTICLE I, SECTION 6

The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States.

Changed by the 27th Amendment.

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;

All members of Congress are exempt from arrest (exceptions noted) while in the course of attending to the nation's business or while traveling to and from their meetings.

and for any speech or debate in either House, they shall not be questioned in any other place.

The free speech and debate clause was included because, under the reign of Queen Elizabeth, members of Parliament who spoke their minds freely were subject to punishment. This section protects members of both Houses from civil redress for expounding upon what they believe to be the truth. The Supreme Court expanded this privilege to include a resolution offered by a member of Congress.

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;

While a member of Congress, no senator or representative is allowed to hold any federal office that was created or given an increase in salary during the time he or she was in Congress. This is to prevent an

administration from creating high-paying posts (or elevating the salary of existing ones) and then appointing favored members of Congress for past and/or future favors.

and no person holding any office under the United States, shall be a Member of either House during his continuance in office.

Any person in a public office must give up that office before assuming the office of Congress to which that person was elected. To allow otherwise would create a conflict of interest. If a person was permitted to hold two or more offices, to which office would the elected person hold greater allegiance

ARTICLE I, SECTION 7

All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other bills.

Only the House of Representatives has the power to introduce bills for the purpose of raising revenue (imposing taxes). However, the Senate can alter or amend these bills. This applies to revenue bills only. Either house can propose non-revenue bills.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approve [sic] he shall sign it, but if not he shall return it, with his objections to the 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 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 or 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 a 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.

This is the procedure of making a bill (a written draft of a law) a law. After a bill passes both houses, it is sent to the president. If he signs it (approves it), the bill becomes law. If he does not sign it and fails to return it to the house from which it originated within 10 days, it becomes law anyway. However, if the president vetoes the bill (returns the bill with his objections to the originating house), this house has two options: First, it can consider the president's objections and start the process over by passage of the changed bill (simple majority vote needed) and then resubmit it to the other house. If the other house also passes the changed bill by a simple majority, it is resubmitted for the president's signature. The second option is to override the veto. To accomplish this, the originating house and the other house must pass the original bill by a two-thirds majority, in which case the bill becomes law and the president's signature is not needed.

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.

This portion is a check on the powers of Congress inasmuch as it requires submission of all drafts requiring Congressional approval (exceptions noted) to the president. This prevents Congress from bypassing the president by calling bills by other names, such as legislative resolutions or motions. The exceptions, "according to the rules and limitations prescribed," are: adjournment of Congress, non-legislative resolutions and joint resolutions (those passed by both houses together) proposing amendments to the Constitution.

ARTICLE I, SECTION 8

The Congress shall have the power to lay and collect taxes, duties, impost and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

Only Congress has the power to lay (impose) and collect taxes (generate money to run the government) by imposing (levying) duties (taxes on imports) and excises (taxes on goods made or sold in the U.S.A.). Income taxes were authorized by the 16th Amendment.

To borrow money on the credit of the United States;

To issue government savings bonds, currency and other such instruments. It was under this clause that Congress enacted the Act of Congress of February 25, 1862 (revised March 3, 1863), which reads: "United States notes shall be lawful money, and a legal tender in payment of

all debts, public and private, within the United States ...”

To regulate commerce with foreign nations, and among the several states and with the Indian tribes;

To control trade with foreign countries (by levying duties and imposts for protection of American industries) and, internally, monitoring interstate and Native American transactions. This “commerce clause,” through multiple court rulings, has become one of the most important powers of our federal government. It has spawned the Interstate Commerce Law, its commission (the ICC), the Sherman Anti-Trust Law, the National Industrial Recovery Act, the National Labor Relations Act and many other boards, acts and laws to regulate commerce.

To establish a uniform rule of naturalization,

To provide consistent and harmonious regulations detailing who shall be permitted to be naturalized. Naturalization means to have the rights of citizenship conferred upon a person. A citizen is one who owes allegiance to a state or nation by birth or naturalization and is entitled to full civil rights.

and uniform laws on the subject of bankruptcies throughout the United States;

Establishing uniform federal rules for dealing with citizens and businesses that cannot pay their just debts is a key to any peaceful and prosperous sovereignty.

To coin money, regulate the value thereof,

Again, uniformity is the reason the framers wanted the national government to have certain powers. To allow each state, person or corporation to issue money or determine monetary values of money

would only lead to chaos. This power was first exercised in 1934 when the president, under the authority of Congress, reduced the standard gold dollar from 25.8 grains to 15.238 (from 100¢ to 59.1¢).

and of foreign coin, and fix the standard of weights and measures;

The establishing of a consistent set of standards of weights and measures lessened confusion in trade. The U.S. Bureau of Standards was established by Congress in 1901.

To provide for the punishment of counterfeiting the securities and current coin of the United States;

Though most criminal acts were left to the power of the state, this clause emphasizes the framers’ fear of anyone tampering with the national government’s sole control over the issuance of money, notes, bonds and other forms of securities. This clause, by current thinking, is believed to be redundant inasmuch as this express power is granted by the implied power of the previous clause. In other words, if the government has the sole power to perform a specific function (in this case, to regulate money), then it is implied that it also has the power to enforce this power. This “implied” power is the basis of most all federal criminal acts, though the Constitution makes no mention of this court-created power. This conflict or possible abuse of federal power is apparent when considering the 10th Amendment to this same Constitution. The 10th Amendment states that “... powers not delegated to the United States by the Constitution ... are reserved to the States respectively, or to the people.”

To establish post offices and post roads;

Under this clause, the federal highway system was authorized and organized. Post offices and mail predate the Constitution by more than a century. Colonial postal service was first established in 1639, and an act of Parliament in 1710 created the position of deputy postmaster in America. Benjamin Franklin held the office in 1753.

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To protect creative people who, in turn, enhance the country as a whole, copyright and patent laws were to be controlled by the federal government. Though these subjects were not mentioned in the Articles of Confederation, the practice of copyrighting was recognized under common law in England.

To constitute tribunals inferior to the Supreme Court;

Congress has the power (under Article I) to establish the lower courts. However, Article III leaves the operation and regulation of these inferior courts to the Judicial Branch.

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

Here the country established its self-appointed and sovereign right and power to not only punish pirates and serious crimes committed on the high seas (open ocean territory not under any flag or country) but to define what these crimes are. Though pirates are mostly (but not completely) a thing of the past, crimes against international law and offenses occurring onboard ships

outside territorial waters are still covered under this clause.

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

Only Congress has the right to declare war, i.e., no state, individual person (including the president) or any corporation can declare war against a foreign power in the name of the United States. Letters of marque are licenses granted by a government to outfit a ship with arms for the purpose of plundering an enemy. After engaged in war, the government reserves the right to decide the fate of all captured persons and material things.

However, an uncontested precedent was established when President Harry S. Truman sanctioned troops and equipment to invade Korea. At the time, it was called a “police action,” but to those who fought there, it was war. It’s a complex world and sometimes the president must assert his power as commander of the military because presenting his case before Congress might tip our strategic hand or allow the enemy more time to prepare or harm us.

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To be able to declare war as granted under the previous clause would be of little value without the power to create a draft to staff an army. Though the president is the commander in chief of the Army and Navy (see Article II), he does not have the power to raise armies (impose a draft). A mandated limit expressly forbids Congress from funding the armies for periods longer than two years. This latter provision was in fear of creating (standing) armies that could become so entrenched and powerful

they might threaten the government. The fact that our modern armies are de facto perpetually staffed might be in violation of this clause.

To provide and maintain a navy;

The authority for Congress to set up and supply a naval force.

To make rules for the government

Here the Constitution provides the express means for the government to make the rules to operate itself. This clause does not bestow any powers or rights not provided for in the Constitution — only a right to allow the government the power to operate within Constitutional mandates, exclusions and demands.

and regulation of the land and naval forces;

This clause clearly shows the intent to keep full and all control of the military in civilian hands. The Congress, through its appointments of civilians as secretaries of the various military branches, is able to make the rules and regulate land and naval forces.

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions;

There are only three reasons the militia can be called into service (Congress has authorized the president to exercise this power at his discretion): 1. To enforce the laws of the United States (the Constitution, Acts of Congress and treaties); 2. To quell revolution (acts of revolt against and within the nation); and 3. To defend against an invasion (attack by a foreign power).

Note: As defined by Webster's 9th New Collegiate Dictionary: militia n. (ca 1659) 1:

A part of the organized armed forces of a country liable to call only in emergency.

2: The whole body of able-bodied male citizens declared by law as being subject to call to military service.

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

Congress has reserved for itself (the national government) the right to organize, supply with weapons, train and control (discipline) the militia.

It was a fear of the Founding Fathers that any military — federal or state — could become so powerful as to exercise its control over the civilian population — hence, the allowing of states to appoint officers for their respective “national guard” units. The intentions were good, but funding (in view of modern day's limited state's money) has developed into the controlling factor. Today, almost all National Guard units are funded and staffed with federal funds. Any state-appointed officers (as required by this clause) are subservient to federal officers of higher rank if and when the unit is “federalized.”

To exercise legislation in all cases whatsoever, over such District (not exceeding ten mile 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;

This clause refers to the establishment of the District of Columbia as the nation's capital. During the Revolutionary War, with the seat of government in Philadelphia, there was some concern that the State of Pennsylvania couldn't or wouldn't protect this seat. It was this experience that instilled in the writers of the Constitution that the site for the capital should be on its own land — not a state but a district. The clause also grants Congress the power, with the consent of the impacted state, to establish (build) federal forts and other needed buildings.

And to make all laws which shall be necessary and proper for the carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, on in any Department of officer thereof.

The Implied Power Clause, as some have labeled it, is either the best piece of work done by the Constitutional Convention or the worst, depending on one's viewpoint. The Legislative Branch gave itself power to make the laws it deems necessary. It is under this clause that laws such as those controlling drugs, trains, airplanes, automobiles, tobacco, environmental issues and even the Louisiana Purchase have been permitted. There is no express authority for laws relating to "other (unenumerated) powers," but the Congress has deemed them all to be presumably "necessary and proper."

If not for this clause, most of the tens of thousands of laws would be in conflict with the Constitution of the United States. Even with this clause, many of these laws are quite possibly unconstitutional (see 10th Amendment).

ARTICLE I, SECTION 9

The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The previous section enumerated 20 things Congress has the power to do, while this, the negative section, lists 10 restrictions. This first clause, dealing with matters before 1808, applied to the slave trade and has since been nullified.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

The writ of habeas corpus (Latin: that you have the body) is an order by a court to the sheriff or jailer to bring the person before the court in order to ascertain the legality of the person's detainment. Under dictatorial regimes, it was common to throw people in jail or prison without charging them and, once in, there was no way out except at the pleasure of the jailer. Now, except during war conditions (civil insurrection or foreign invasion), everyone has the right to have charges brought before a court of law so they can defend themselves.

No bill of attainder

A bill of attainder is a court procedure whereby a person is tried and convicted without a jury or even a hearing in court and usually without presentation of witnesses or compliance with any rules of evidence. This practice was common in England and had even been used in this country prior to passage of the Constitution. Without this clause, the political party in power could hold

secret trials, arrest the “convicted” person and keep him in jail indefinitely — or worse.

or ex post facto Law shall be passed.

Ex post facto means making an act that was not a crime when it was done retroactively illegal. In other words, if, in March, a person did “A,” which at the time was not illegal, the legislature, acting in April to make that kind of act illegal, cannot extend its illegality backwards in time to apply to the commission of the act in March.

No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

Refers to poll or head tax levied without regard to uniformity or in proportion to the census. This part of Section 9 has been voided by the enactment of the 16th Amendment.

No tax or duty shall be laid on articles exported from any state.

This means as it says. Federal taxes cannot be levied on exported goods.

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.

To keep the playing field level among the states, Congress is forbidden to post higher import taxes at ports in some states as a form of regulating commerce to the advantage of another state. Additionally, ships moving in interstate commerce are not required to enter, or pay taxes to, any state.

No money shall be drawn from the treasury, but in consequence of appropriations

made by law; and a regular statement and account of receipts and expenditures of all public money shall be published from time to time.

A check and balance on the Legislative and Executive branches. All money drawn from the treasury must be done in the manner according to law. Just like any other bill, all money (appropriations) bills (drafts for money) must originate in the House, pass the Senate and be presented to the president. The money collected and spent by the government must be recorded and published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

To reduce opportunities of foreign or domestic influence, no rank or title (recognizing or implying a special right over and above the rights enjoyed by others) are to be bestowed by this government. Nor can any foreign title, rank or payment be accepted by anyone employed by the government, unless the Congress so agrees.

ARTICLE I, SECTION 10

No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a legal 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.

This section, a reiteration of several clauses contained in previous sections, imposes some of the same restrictions on the states as imposed on the national government. It

also forbids individual states from entering into any formal agreement with a foreign country — a right reserved exclusively for the federal government.

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 control of the Congress.

Except for the costs of covering inspection laws, no state, without the consent of Congress, is allowed to impose taxes on imports and exports. Any money collected over and above their costs is to be turned over to the national treasury. Congress retains for itself the right to change or alter this law.

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 of 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.

Again, a bar on the powers of the individual states. Without the consent of Congress, states are restricted to four additional acts: 1. States cannot tax tonnage (cubical capacity of ships). Doing so may usurp Congress' commerce regulatory powers; 2. States are forbidden, during times of peace, to keep war ships and military troops. The state National Guard was not considered "troops," as this militia was not intended to be on duty as a standing army. Rather they were civilians who had received training

(discipline) and were subject to call when needed; 3. States could not usurp the federal government's authority by entering into alliances (agreements or compacts) with each other or with foreign powers. To allow separate alliances might prove not to be in the best interest of the country and/or an embarrassment to the national government itself; and 4. States could not, in and of themselves, declare, wage or engage in war except in self-defense. Each of these powers is inherent in central government, and all states, in the interest of becoming United States, disclaimed these rights when they separately and individually ratified the Constitution.

ARTICLE II

THE EXECUTIVE (Enforcement) BRANCH

ARTICLE II, SECTION 1

The executive power shall be vested in the President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term,

Executive power means enforcement. The president is charged with the authority to see that the laws of the country are carried out. The president and vice president cannot be elected separately — they are listed together on the ballot. The reason for this is to allow the same party to retain the office should the vice president be required to assume the duties of the president. Both, upon being elected, will serve for four years.

to be elected as follows: Each state shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator

or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The states, in whatever manner they decide, appoint people who are not holding a federal office to the so-called Electoral College. Today, electors are elected during the primary election in each state. These electors then vote for the presidential and vice presidential candidates who receive the most votes in the general election. The number of electors is directly related to the number of senators and representatives the state has. All states have two U.S. senators and if, for example, a state has five U.S. representatives, then this state has a total of seven electoral votes.

During election night, when it is announced that a certain state has been won by one candidate or the other, it means that candidate has won the majority of that state's popular vote and thus the electors of the winner's party will vote accordingly. Under this system, the voters do not directly elect the president and vice president but elect electors. There is no criminal punishment should electors NOT vote according to the majority of voters.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest

number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, then from the five highest on the list the said House shall in a like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each state having one vote; A quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to choice, In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.

Superseded by the 12th Amendment.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

The time so set to elect the electors (vote for president and vice president) is the Tuesday following the first Monday in November every fourth year. The electors are required to tender their votes on the first Monday after the second Wednesday in December. The electoral votes are not actually counted (by both houses) until the Jan. 6.

No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained the age of thirty-five years, and been fourteen years a resident within the United States.

The offices of president and vice president are the only offices that require the holders to have been born in this country. In addition, these candidates must have lived in the United States at least 14 years and be no less than 35 years old. The framers feared that, for example, if a person is born to American parents while they were in X country, this child would automatically be a U.S. citizen. Suppose, however, this child, after moving back to the USA for 14 years, then returned to X country until age 35, then he/she moved to the USA again and ran for president. To whom does this person hold allegiance?

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President and the Congress may by law provide for the case of removal, death, resignation or inability, or both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

Superseded by the 25th Amendment.

The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Salary and expense allowances granted to the president cannot be increased or decreased while he or she is in office. Any raise or lowering in compensation decreed by Congress will apply to the succeeding term. In addition to the monetary perks of

office, the president is afforded free rent, medical care and all modes of transportation. While in office, the president is not permitted to accept any other income from the federal government or from any of the states.

Before he enter on the execution of his officer, he shall take the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

This oath has historically been administered by the Chief Justice of the United States during the inauguration ceremony (Jan. 20). However, it may be taken before any officer empowered by law to execute an oath. The oath of office is a requirement compelling the president to enforce the laws of the nation and, to the best of his ability, support the Constitution.

ARTICLE II, SECTION 2

The President shall be the commander in chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States;

In keeping with a separation of powers, Article I, Section 8 made it clear that Congress has the exclusive power to declare war and raise armies. However, and though the president couldn't form the army and navy, after they are established by Congress, he is in charge. In time of war, almost anything goes. The Congress has granted the president some very unique and extreme powers, with time restraints, to handle such emergencies. During World War I, Congress authorized the president to take over and operate the railroads as an instrumentality of war. Other such extraordinary wartime

powers have included: Conservation of Food Act, War Finance Corporation Act, Trading with the Enemy Act, et. al.

he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective officers,

The executive departments are appointed by the president, with the consent of the Senate, and serve until replaced. Those units of government where the president is empowered to appoint heads (principal officers) are: secretary of state, secretary of labor, secretary of the treasury, secretary of health & human services, secretary of defense, secretary of housing/urban development, attorney general, secretary of transportation, secretary of interior, secretary of energy, secretary of agriculture, secretary of education and secretary of commerce.

and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

The president has the sole power to pardon any person who has been convicted of any crime against the U.S. The only exception is for conviction of impeachment. The reason for the exception is so an impeached office holder cannot be reinstated to the position from which he has been removed.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur;

Contracts between two or more governments (treaties), such as peace, boundary locations, copyrights, patents, trade agreements, etc. can be negotiated by the president, but in

order for these treaties to become valid, two-thirds of the Senate must agree. The true genius of the U.S. Constitution is evident in this clause. By consulting in advance with the Senate (the war-making branch) about foreign policy that could come before them for vote, the president reduces the chances of misinterpretations that could lead to such serious matters as war.

and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of department.

Again, the Senate's approval is required, this time for the appointment of ambassadors (official representatives of the U.S. to foreign countries), consuls (government officials to watch over U.S. commercial interests in foreign lands), judges of the Supreme Court and all other officers of the United States. As to lesser appointments, such as inferior courts lower ranking officers and heads of departments not otherwise required by law, Congress can allow the president to make such appointments alone (without the consent of the Senate).

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

In order to keep a smooth-running government, the president is empowered to make temporary appointments to fill vacancies that occur when the Senate is not in session and thus is not available for “advice and consent.” All such commissions (temporary appointments) expire at the end of Senate’s next session.

ARTICLE II, SECTION 3

He shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient;

The president is required to report to the Congress (usually at the beginning of each session) on the state of the union (condition of the country) and suggest what changes he thinks should be addressed by the Congress.

he may, on extraordinary occasions, convene both Houses, or either of them,

The president has the power, during times of a national emergency, to order the Senate and/or the House of Representatives into session (come to Washington for an official meeting). Over the years, there have been numerous times that a sitting president has called for a special session. Some of the reasons have been to deal with war, money matters, foreign neutrality violations and others.

and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper;

If during this emergency session Congress cannot reach an agreement as to disposing of the emergency matter, the president can call for an adjournment. This has never happened.

he shall receive ambassadors and other public ministers;

He is the formal head of the United States and, as such, is the official greeter of visiting foreign dignitaries. However, the president sometimes delegates this responsibility to the secretary of state. It has always been accepted that with this responsibility goes the implied power to refuse to receive a foreign representative. Additionally, the president can, and has on many occasions, dismiss an ambassador by giving him passports to leave the country. Usually, though, an objectionable ambassador is quietly recalled by his own government at the request of the president.

he shall take care that the laws be faithfully executed,

The president is required to see that constitutional demands, acts of Congress, treaties, federal court rulings and all other federal laws of the United States are carried out (enforced).

and shall commission all the officers of the United States.

Today, more than half of the commissioned officers are appointed through the U.S. Civil Service Commission. The president, nonetheless, issues the commission (makes it official by his signature).

ARTICLE II, SECTION 4

The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery or other high crimes and misdemeanors.

Excluding the military (non-civilian officers), all government judges, elected officials and others, including the president and vice president, will be thrown out of office after they are impeached (formally charged) and convicted of those charges. The only punishment for impeachment is removal from office. One cannot be fined, imprisoned or penalized in any other way. Contrary to statements and references made by self-serving politicians during the Clinton impeachment hearings and trial, the Founding Fathers clearly intended for our civil officers to be exemplary citizens. Use of the term “misdemeanors” to describe a crime for which one could be impeached is indicative of the minimal level of criminal activity needed to impeach. Our president, vice president and civil servants must adhere to the lowest level and language, as “rising to the level of an impeachable offense” is not in the Constitution. The level is at the lowest mark: misdemeanor. Though our courts did not rule on the Clinton trial, a precedent might have been established: The president (and possibly all civil servants) can only be removed from office if their impeachment rises to the level of an impeachable offense. What that level is (perhaps not the felony crime of perjury and certainly not a mere misdemeanor) remains to be defined — any definition short of misdemeanor would appear to be in violation of this section of the Constitution.

Note: William J. “Bill” Clinton (42nd President of the United States) was impeached by the House of Representatives on two charges, one of perjury and one of obstruction

of justice, on Dec. 19, 1998. He was subsequently acquitted of these charges by the Senate.

ARTICLE III THE JUDICIAL BRANCH

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.

This Constitution establishes, as the final check and balance of a tri-level republic, a Supreme Court. But in keeping with the balance of power intention of the framers, the definition and quantity of all other courts shall be at the pleasure of Congress. Judges, of course, as decreed in Article II, can only be appointed by the president. So, we end up with a system where the Legislative Branch makes the laws, but it also has other powers, such as the right of approval of certain presidential acts and the power to make all other courts. The Executive Branch has the power to appoint judges — but only with the consent of the Senate — whereas the Judicial Branch has the power to determine if the other branches are abiding by the demands of the Constitution, but it does not have power to establish lower courts nor appoint its own judges.

Though we have three branches of government and a Supreme Court to interpret the meaning of laws, orders and edicts, the Supreme Court is not the controlling and final word. In the words of Justice Felix Frankfurter, “[the] ultimate touchstone of constitutionality is the Constitution itself and not what [the judges] have said about it.” (Graves v. O’Keefe, 1939).

The only appeal — the only way to change or overrule a decision of the Supreme Court,

it being the highest court in the land — is a constitutional amendment. Presidential order or laws enacted by Congress will have no legal impact on the ruling of the Supreme Court. Rulings that have far-reaching consequences sometimes don't have the intended results. Unlike lower courts, the Supreme Court decisions are controlling for the entire nation. Because of opposition (those who are negatively impacted by a decision), some might ignore or evade their responsibilities under the mandate or work to get around the ruling by misinterpreting a judicial order. Enforcement, of course, is up to the Executive Branch. If the decision is not to the liking of this branch, it stands to reason that enforcement might be slow or difficult. The Supreme Court has no power of enforcement.

Noncompliance of legal demands are a serious threat to the entire country on every level. One of the most flagrant examples of noncompliance was the decades-long reluctance of many school boards to comply with the *Brown v. Board of Education* desegregation ruling. More recently, many cities have merely changed a few words in their unconstitutional gun laws to continue de facto firearm control.

The federal courts and their jurisdictions are:

1. SUPREME COURT (established by Article III of the U.S. Constitution). There is no requirement that the Supreme Court must hear any cases other than those specified under Section 2 of this article. It does, however, on a very selective basis, hear appeals from the appellant courts, or under select circumstance, from state supreme courts. The old adage, "I'll appeal all the way to the Supreme Court," is a false hope inasmuch as the Supreme Court decides to hear very few cases.

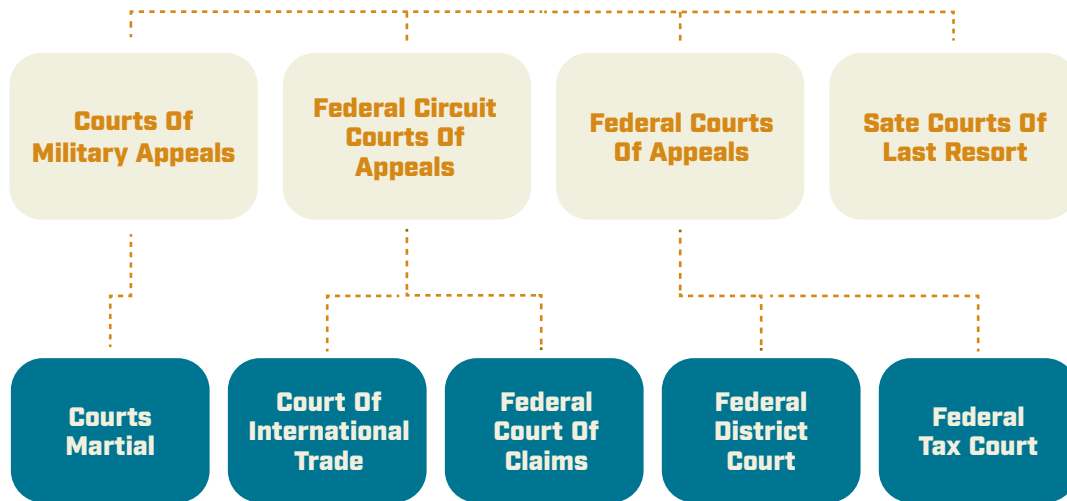
The reasons for the selectivity is due to an overload of cases and sometimes because, for political or human-type reasons, it does not want to make a ruling that could "upset the apple cart." In other words, the justices and their families are members of society too, and their rulings could adversely affect their world. The human-type reason is vanity. History can prove their rulings to be an embarrassment, as in the *Dred Scott* and *Plessy* decisions (noted in the author's Preface).

2. FEDERAL COURT OF APPEALS (hears appeals from the district courts). Established in 1891 to reduce the load of cases being appealed to the Supreme Court. There are 12 such courts (circuits) for the geographically divided country.

3. UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT (formerly, Court of Customs and Patent Appeals). They decide matters related to customs and patent infringement that are on appeal from a district court. This court also hears appeals from the Court of Claims and the Court of International Trade.

4. COURT OF CLAIMS. Adjudicates claims against the government, such as injury or loss caused by the government or an agent of the government. This court has original jurisdiction (not an appeals court).

5. FEDERAL DISTRICT COURTS. These courts hear civil and criminal matters as they pertain to federal law. There are several hundred such courts in the U.S. The decisions rendered at this level only have an impact (control) over the particular district in which the case originated. In other words, if, for instance, the District Court for Southern Ohio decides that it is illegal to commit "X," only those under that district (geographical area) are forbidden to commit



“X.” This “case law” is the final authority for matters concerning “X” in this district until or unless the ruling is overturned by the Federal Court of Appeals or the Supreme Court. Of course, other districts can cite this “case law,” and if brought to a hearing in another district, it is most likely to be confirmed by that district. When district courts issue opposing decisions, the matter is most likely to be heard at a higher court.

6. COURT OF INTERNATIONAL TRADE.

The members of this Special Court are trained to handle disputes concerning trade practices between citizens of the United States and foreign countries. This is a Special Court of original jurisdiction.

7. TAX COURT. This is a court of original jurisdiction for citizen and business disputes over federal taxes. Small tax cases of less than \$5,000 are not appealable.

8. COURT OF MILITARY APPEALS. This is an appellant level Special Court to hear appeals from military courts. Members of the U.S. military who have been court martialed can appeal their cases to this special court.

The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Unless removed from office by the impeachment process (failure of good behavior), judges can hold their office until retirement. While a federal judge is in office, his salary cannot be reduced.

ARTICLE III, SECTION 2

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states;

The Judicial Branch shall have the power to decide all cases, of national affect,

including criminal (concerning violations of federal criminal laws), civil (disputes between parties other than criminal) and equity (cases asking the court to right a wrong or prevent a wrong from being done). Ambassadors and other mentioned classes can have their cases disposed of in the federal court system.

between a state and citizens of another state;

Changed by the 11th Amendment.

between citizens of different states; between citizens of the same state claiming lands under grants of different states,

The federal courts have original jurisdiction over disputes between citizens of different states and those who have conflicts over land grants of different states.

and between a state, or the citizens thereof, and foreign states, citizens or subjects.

Changed by the 11th Amendment.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction.

“Original jurisdiction” means the Supreme Court will hear the case first, i.e., the party or parties do not have to submit to an inferior (lower) court for the trial.

In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

Appellant jurisdiction is the power of the Supreme Court to hear appeals from inferior (lower) courts. This power means the Supreme Court can overrule (or affirm) the decision of an inferior court. The Supreme

Court has no power over matters of state constitutional law. That is under the sole jurisdiction of the individual state supreme courts.

The trial of all crimes, except in cases of impeachment, shall be by jury;

This inherent right was so important (because of abuse of this right by the British prior to the Revolutionary War) that the Founding Fathers placed it in this article and again in the Bill of Rights (Amendments 6 and 7). Impeachment cases, as noted earlier, are matters for the Senate (Article I, Section 3).

and such trial shall be held in the state where said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

The requirement precludes forcing one charged with a crime from having to travel across state lines to attend his own trial. If a crime occurs anywhere other than within a state’s boundaries, such as on the open seas, Congress reserves the right to determine the trial’s location.

ARTICLE III, SECTION 3

Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort.

Treason, being the most serious crime against a sovereignty, was defined by Parliament under English rule. The English had at least 17 treasonous acts, all of which were punishable by death. Not wishing to allow Congress the same power to define this crime, the writers of the Constitution limited the act of treason to only two offenses: levying (making) war against the U.S. and giving aid (help) to the enemy.

On April 16, 1917, at the onset of World War I, President Wilson, as a warning to citizens and aliens, issued a proclamation that has been held to be within the Constitutional definition of treason:

“The courts of the United States have stated for the following acts to be treasonable: The use or attempted use of any force or violence against the government of the United States or its military or naval forces; the acquisition, use or disposal of any property with knowledge that it is to be, or with intent that it shall be, of assistance to the enemy in their hostilities against the United States; the performance of any act or the publication of statements or information which will give or supply in any way, aid and comfort to the enemies of the United States; the direction, aiding, counseling or continuing of any of the foregoing acts. Such acts are held to be treasonable whether committed within the United States or elsewhere; whether committed by a citizen of the United States or by an alien domiciled or residing in the United States, inasmuch as resident aliens, as well as citizens, owe allegiance to the United States and its laws.”

No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or on confession in open court.

The execution of Sir Walter Raleigh, convicted on the testimony of a single person who was not examined in court, prompted the rule that for a conviction of treason against the United States, the prosecution must produce no less than two witnesses to the same overt (assumed or open to view) act or a confession in open court.

The Congress shall have the power to declare the punishment of treason, but no attainder of treason shall work corruption

of blood, or forfeiture except during the life of the person attained.

The terms of punishment for the act or acts of treason, being the only crime defined in the Constitution, are reserved to Congress. No other governmental branch or any state government can set the sentence for this crime. As heinous as treason is, the punishment cannot be a corruption of blood (a bar from inheriting, retaining or transmitting an estate) except during the lifetime of the person attainted (disgraced, convicted). In other words, the punishment cannot include the next generation — heirs. Property can be taken as punishment, but the title to the property must be returned to the estate after the convicted person dies.

ARTICLE IV

Pertaining to the States

ARTICLE IV, SECTION 1

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.

This clause is a demand upon the states to require them to recognize (respect, accept) the laws of their fellow states. Without this edict, persons under indictment or other legal obligations, such as marriage, divorce and birth certificates, could escape their duties by crossing a state line. In other words, each state must give full faith and credit (recognize and honor) all fellow state's public acts (laws), records (birth, death, marriage) and judicial proceedings (court decrees, judgements). Today, though all states recognize other states' driver's licenses, many states struggle with accepting licenses for carrying concealed firearms, which could be in violation of this section.

And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

For the sake of uniformity, Congress reserves the right to define the acts, records and proceedings that must be adhered to. Without federal control, states might argue and institute a barrage of court fights to settle definitions.

ARTICLE IV, SECTION 2

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

Now that states must respect each other's laws, records and proceedings, so too must they allow the citizens from other states the same privileges granted their own citizens. If the citizens of State A are permitted to purchase automobiles, then if a citizen from State B comes to State A, the citizen from State B is also entitled to purchase automobiles under the same conditions as citizens of State A. The intent is to avoid making U.S. citizens aliens within their own country while traveling or moving.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

With rights and privileges comes responsibility. If a person, regardless of his or her nationality or place of residence, commits a crime in State A and flees to State B, he or she cannot expect to escape the laws of State A just because he or she is no longer physically present in that state. At the request of the governor of State A, the state

where he or she is criminally charged, he or she can be ordered extradited (arrested and returned) to State A. Most countries have extradition treaties among themselves to handle fugitives.

There is no penalty provision in the Constitution if State B refuses to "deliver up" the fugitive to State A. Contrary to the "shall on demand" wording, the Supreme Court, in 1860, refused to issue a mandate to Ohio (who had ignored an extradition order from the governor of Kentucky) to return a man charged with aiding the escape of a slave.

With reference to the term "other crime," crimes of a civil nature and any non-indictable crimes are generally excluded from extraditable offenses due to the pragmatic reasons of costs and time.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Superseded by the 13th Amendment.

ARTICLE IV, SECTION 3

New states may be admitted by the Congress into this union;

Congress reserves the right and power to admit a territory as a new state(s) to the union.

but no new states shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

After a state is part of the union, it cannot divide itself, combine with another state or part thereof to form a new state without the consent of the affected states and the blessing of Congress. This is to prevent a large state from arbitrarily dividing itself into many smaller states to increase its political power. For example: Suppose like-thinking Texans decided to form three states out of the state of Texas. Now these like-thinking Southwesterners would have, in effect, six senators, possibly an increased number of representatives, three governors and additional federal funding to share. Or suppose Kansas decided to split their state into 25 or 500 new states?

The Congress shall have the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Territory here means any geographical area claimed by the United States as opposed to geographical areas that were actual states or land claimed by other countries. Congress reserves the right and power to make all needed rules and regulations (govern) and to “dispose of” (admit as states into the union or sell, trade or barter away) these territories. At the time of the writing of the Constitution, most of North America consisted of undeveloped land where territorial claims by the United States and other countries were of dubious origin.

ARTICLE IV, SECTION 4

The United States shall guarantee to every state in this union a republican form of government,

This is a promise to the people of each state that their state government will be republican in form, i.e., the people will elect their own representatives. This guarantee means that the state government will not become a monarchical or aristocratic form of rule.

and shall protect each of them against invasion;

Though under Article 1, Section 10, the states had the right to defend themselves against invasion (attack by a foreign power), the U.S. government promises here to come to their assistance. This clause also establishes the implied obligation of the federal government to maintain secure borders and erect barriers and means of deterrence to thwart foreign invasions. The number of illegal aliens that daily flock to this country, especially to the detriment of the states bordering Mexico, seems to be in contravention.

and on application of the legislature, or of the executive [when the legislature cannot be convened] against domestic violence.

If any state's legislature (lawmaking body) requests (makes application for) help to quell any form of violence (riots, mob attacks, etc.) within its borders, federal troops will be sent. If the state legislature is not in session, the executive (governor) can make the request. This clause is not to be interpreted that federal troops will become a state police force. The arrival of federal troops sent under this promise is to restore order, not to make arrests and prosecute criminals. Each state has a constitutionally

implied obligation to maintain its own police authority.

The clause has also been used, so to speak, in reverse. In 1894, during a country-wide railroad strike, President Grover Cleveland, against the express wishes of the governor of Illinois, sent in federal troops to protect post offices and keep the post roads open (Article I, Section 8 gave the power of establishing and maintaining post offices and post roads).

ARTICLE V

Amending the Constitution

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution,

Proposals to amend the Constitution can be originated by either Congress or the states themselves. If Congress wishes to propose a new amendment, both houses must pass the new amendment by a majority of two-thirds in each house. Following that, the amendment must be ratified (accepted) by three-quarters of the state legislatures.

If the states wish to propose an amendment, Congress, upon request of two-thirds of the state legislatures, shall call a special convention of the states' legislatures. This state-proposed amendment must then be passed by three-quarters of the states (amendment by state convention has never been attempted).

when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress;

Ratification (to approve or confirm, make official) by the states can be by an affirmative vote of three-quarters of the legislatures of all the states or by conventions (the people of each state voting as a state). Only once has ratification by convention occurred — the 21st Amendment.

provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article;

No amendment can be made prior to 1808 that affected the slave trade.

and that no state without its consent, shall be deprived of its equal suffrage in the Senate.

Amendments could not be made to reduce or disparage a state's equality in the Senate without that state's consent. Not even an amendment to the Constitution can change the "two senators per state" rule unless the state so agreed.

ARTICLE VI

Constitution Status

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be valid against the United States under this Constitution, as under the Confederation.

In the period of time between the Declaration of Independence (start of the Revolutionary War) and ratification of this Constitution,

the country operated under the Articles of Confederation. When we changed to the present form of constitutional law, we wanted the world to know that we would honor all debts and treaties agreed to under the previous form of government.

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;

This clause is probably the most unambiguous, yet least respected, in the entire Constitution. It has plain, simple, common-sense wording. All laws must be written and enforced in pursuance to (in accordance with) the Constitution and all the laws made under it constitute the supreme (ultimate, final, highest authority) law of the country. No body and nobody can overrule the Constitution — not the president, the Supreme Court, the police or the military generals. The Legislative Branch (Congress) and the states, and they only, in accordance with Article V, have the power to change the Constitution, but only by amendment.

Historically, all three branches have bent, twisted, ignored and circumvented the Constitution through laws, statutes, edicts, orders and acts that are in direct contravention to its articles and amendments. When a sitting president issues an “executive order” that has the weight of law and then, using his power as the enforcer, enforces this order, it violates the intent and purpose of our Constitution. Likewise, when the Congress passes a law that disparages (lessens in value) or infringes (violates) individual constitutional rights or the Judicial Branch favors states’ rights over inalienable constitutional rights, the Constitution is violated.

and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding.

Again, simple words demand that judges are obligated to uphold the federal Constitution, even if it means going against some other lesser law or state constitution. But, in reality, courts (manned by humans and all their imperfections) sometimes allow political correctness to supersede constitutional correctness.

The Senators and Representatives before mentioned, and the members of the several legislatures, and all executives and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution;

The previous clause made the requirement of obedience to the Constitution mandatory to all state-level judges. Now, with this clause, all federal and state senators, representatives and governors, as well as judges, are also bound (required) to swear an oath or affirm (promise) to support, and not violate, the Constitution of the United States.

but no religious test shall ever be required as a qualification to any office or public trust under the United States.

No religious belief or obligation can be required of any person in order for that person to be eligible to become an elected or appointed official representative of this country. This clause does not prevent a “religious test” as a way of excluding immigrants.

ARTICLE VII

Ratification

The ratification of the conventions of the nine states, shall be sufficient for the establishment of this Constitution between the states so ratifying the same.

Though there was much dissent to the Constitutional Convention's draft requiring ratification by nine of the original 13 states, it survived the first test. Eleven years after independence was declared in 1776, the Constitution went into operation on Sept. 17, 1787 with George Washington as president.

done in convention by the unanimous consent of the states present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven and of the independence of the United States of America the Twelfth in witness whereof we have hereto subscribed our names.

The representatives of the United States signed their names:

George Washington

president and deputy from
Virginia

New Hampshire:

John Langdon
Nicholas Gilman

Massachusetts:

Nathaniel Gorham
Rufus King

Connecticut:

William Samuel Johnson
Roger Sherman

New York:

Alexander Hamilton

New Jersey:

William Livingston
David Brearly
William Paterson
Jonathan Dayton

Pennsylvania:

Benjamin Franklin
Thomas Mifflin
Robert Morris Jr.
George Clymer
Thomas Fitzsimons
Jared Ingersoll
James Wilson
Gouverneur Morris

Delaware:

George Read
Gunning Bedford
Jr., John Dickinson
Richard Bassett
Jacob Broom

Maryland:

John Blair
James
Madison, Jr.

North Carolina:

William Blount
Richard Dobbs Spaight
Hugh Williamson

South Carolina:

John Rutledge
Charles Cotesworth Pinckney
Charles Pinckney
Pierce Butler

Georgia:

William Few
Abraham Baldwin

The Bill of Rights

AUTHOR'S PREFACE

The first 10 amendments to the Constitution, known as the Bill of Rights, are in contrast to the Constitution's articles, which (with some exceptions) codify rights, protections and limits on federal and state powers. Rather, these original and first 10 amendments record and list freedoms and liberties of the individual citizen and install additional limits on governmental intrusions.

It is important to note that many of the "rights" contained in this Bill of Rights are NOT granted (given to) the people by the government or by the document itself. Rights, such as the right to freedom of religion or the right to keep and bear arms, are intrinsic (rights the people had before the Constitution was written). The Bill of Rights only forbids the government from trespassing on, violating or taking these rights away by passing restricting laws. Thus, and contrary to what some people believe, if, for example, the 2nd Amendment were repealed, it wouldn't change the fact that the people would still have inherent rights to use what means are available for self-protection.

Also significant, especially in the first 10 amendments, is the use of certain words, such as "reasonable," "excessive," "prescribed-by-law," "upon-probable cause," "unusual" and "shall." The latter is not discretionary, whereas the other words allow for some leeway or judgment. The term "shall" is mandatory.

The Constitution has been amended 27 times; the 27th and last ratification was made in 1971. Since that date, tens of millions of laws, statutes, edicts, court rulings and executive orders have been enacted. At some point, we have become a nation of laws, contrary to the original concept that we are a nation of constitutions, where laws, statutes, edicts, court rulings and executive orders are subservient to the Constitution.

PRECURSOR TO THE AMENDMENTS

In one of the first acts of the new Congress, a previous issue was addressed. During the writing of the Constitution, many of the framers wanted a Bill of Rights to be included in the original draft. Mainly due to time constraints, the convention did not get to these human rights. However, in order to secure the ratification of some of the states, promises were made to prepare a list of rights and present it for ratification.

An ACT OF CONGRESS, New York City, the Fourth of March 1789:

The Conventions of a number of the states, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers,

The framers feared not only misapplication of the governmental powers of the new government, but outright abuse upon the citizenry. The delegates to the convention, having had to deal with the abuse of power of the English government, were very wary of even their own newly formed government when it came to individual rights.

that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution.

The restrictive clauses and declarations are to be restrictions against the government to assure individual freedoms, which, in turn, instills confidence in the government.

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following articles be proposed to the legislatures of the several states, as amendments to the Constitution of the United States, all or any of which articles, when ratified by three fourths of the said legislatures, to be valid to all intents and purposes, as part of the said Constitution;

The requisite two-thirds of both houses of Congress have agreed to the content of the proposed amendments. There were 12 of these, but two dealing with Congressional representation and Congressional pay were not approved by the various state legislatures. The remaining 10 — the Bill of Rights — became effective on Dec. 15, 1791.

Articles in addition to, and amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several states, pursuant to the Fifth Article of the original Constitution ...

Here Congress acknowledges its duty to comply with the intent of the Constitution by following the procedure for amending the Constitution as found in Article 5. The Act goes on to list the first 12 amendments, which, when ratified, became the Bill of Rights, though only 10 in total.

AMENDMENT I

**Freedom of Religion, Speech, Press,
Assembly and Petition. Ratified, 1791**

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;

This is an order on the Congress not to pass laws creating or acknowledging a religion or stopping people from enjoying their own form of religion or methods of practicing it. Until passage of the 14th Amendment (1868), states were not precluded from passing laws that would infringe on these rights. The 14th Amendment corrected this oversight by establishing that if one has a national right not to be subjected to government-mandated controls on these freedoms, the state must also be restrained.

or abridging the freedom of speech, or of the press,

Every citizen is allowed to speak and write his or her thoughts freely and without fear of government reprisals or restrictions. These rights, of course, like all individual rights, are not absolute. If the exercising of one's rights violates another's right, then some controls are required. The oldest example is yelling "FIRE!" in a crowded theater when there is no fire, which goes against the rights of those attending the theater, who have the right to peaceably assemble.

of the right of the people peaceably to assemble,

Whether one is attending the theater, a sports event or a meeting to discuss governmental changes, the government is powerless to block, restrict or criminalize this important right. Those who assemble for the purpose of infringing on other's rights, such as rioters, are not assembling

in a peaceable manner and thus are not in legal exercise of this right.

and to petition the government for a redress of grievances.

Little good would come of being able to peaceably assemble to discuss corrections to (redress of) governmental actions if the right to present these complaints (grievances) was not allowed. Of course, there is no mandate for the government to act on these grievances.

AMENDMENT II

Militia and Right to Keep and Bear Arms. Ratified, 1791

The 2nd Amendment to the U.S.

Constitution serves five functions:

1. It acknowledges that the individual right to keep and bear arms is a preexisting right (a right that was in effect before the Constitution was written). Because this right is contained in the Bill of Rights and not under Articles I or IV, this amendment is not a state right but an individual right of the people (as noted in the Act of Congress, March 4, 1789).

2. The Amendment operates to forbid the government from "infringing" (tampering, usurping, violating) this intrinsic and inherent right.

EDITOR'S NOTE: The government can set limits and define who is eligible for a license. The federal government also plays a part because of their database requirements for licensed firearm dealers.

3. It acts as a reminder — an obligation — that the militia must be ever vigilant and prepared. It is obvious the framers believed

it was desirable to have a militia available and ready to heed the call of need.

4. It acts as an implied warning to the people to rely upon themselves, rather than the government, for protection and security.

5. This amendment confirms the ability to enforce or secure the rights to life, liberty and the pursuit of happiness.

A well regulated militia,

A trained and disciplined body of able-bodied men subject to call into military service. This was only a wish because, under the Constitution (Article I, Section 8), the government is powerless to maintain a standing army. Therefore, and in order to be sure that the “militia” is available should it be necessary to raise an army, it would be better for everyone if the “militia” were not only armed but carried their arms with them. In those early days, the people feared attack from foreign powers or criminals. Today, though we are not under threat of foreign invasion, per se, we are subject to assault by terrorists and criminals.

being necessary to the security of a free state,

Because the Constitution (Article I, Section 10) forbade the national government from maintaining a standing army, each state, if it believed it had the need, could have its own regulated militia on call, i.e., the National Guard.

the right of the people to keep and bear arms,

It doesn't say, “the right of the state to keep and bear arms.” It says, “the right of the people to keep and bear arms.” The Bill of Rights is about people's (individual) rights, not about states' rights (which are outlined in Articles I, III and IV). If the framers had

‘THE RIGHT OF THE PEOPLE’

The 2nd Amendment clause, “The right of the people,” indicates that the framers were acknowledging a right rather than granting a right. Therefore, this right “to keep and bear arms” is an inherent and intrinsic right that predates the Constitution. A preexisting right cannot ever be *malum prohibitum* — wrong because legislatures, courts or political correctness says it's wrong.

Regardless of recent Supreme Court of the United States decisions supporting this legal fact, our detractors have continued to work to disparage our right. Their next assault might be to the effect that, though the right to keep and bear arms (RKBA) is an individual right, it is not absolute. They will contend that even a Supreme Court mandate is not absolute and thus is subject to restrictions.

Contrary to what some overzealous pro-gunners want to believe, the anti-gunners are correct inasmuch as the RKBA is not an absolute. If it was, we would have to allow little children and prison inmates to keep and bear arms. Therefore, some

limits must be acceptable. But limits do not mean anything the legislature/courts want it to be. Bearing arms is not an absolute right under all conditions any more than free speech allows one to yell, “Fire!” in a crowded building when there is no fire. The Constitutional right to bear arms does have limits, but these confines are only limited to two factors: citizenship and other's rights.

“The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.” Justice Louis Brandeis, 1927.



intended the right to arms to be a state's right, the 2nd Amendment would have read something like, "The right of the state to arm its militia shall not ..."

Keep refers to possession. Bear means to transport (carry). Keeping arms without being able to carry them would completely destroy the purpose and utility of the arms. "Arms" denotes weapons. The types of weapons are not specified.

shall not be infringed.

Shall is mandatory. It does not mean maybe or at someone's discretion. Infringe means to encroach upon or violate the rights of another. This clause is a mandate upon the government not to violate the people's right to own and carry arms. Other than protection from invasion (foreign army), nowhere in the Constitution or its Amendments is it guaranteed, pledged or warranted that the individual has the right to expect the government to protect him or her. Self-protection is left up to each citizen by maintaining what arms are deemed best for that purpose.

AMENDMENT III

Quartering Troops. Ratified, 1791

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

The colonists had been forced to quarter (house and feed) the British troops for many years. Though the framers recognized the pragmatic need to quarter soldiers in time of war, they were adamant that this practice was not to be done during peacetime. When war was at hand, and as long as the quartering was prescribed by law (laws having been

CITIZENSHIP: At the time of the Constitution's inception, the framers, "all men in a man's world," clearly gave little thought to anyone other than the man as the defender of family, property or country. Whereas, in 18th Century England, only the landed rich were empowered to defend honor and country. This concept of all men being full citizens and having the right, empowerment and obligation to self-preservation was unique to America.

A citizen, circa 1785, was considered to be any white American male over the age of 21 who was not a felon. The idea of civilian gun controls was unconscionable. It was also inconceivable that a Thomas Jefferson or a James Madison would refuse to take a musket away from a drunk, a child or someone conspicuously deranged. Had one been able to ask these learned, most-sacred-document framers of the conflict of such a restrictive action, they most likely would have replied with words to the effect that the drunk or mental incompetent were, at least temporarily, not citizens. A child was, of course, not a man and a felon had forsaken his citizenship.

The controversy of the 2nd Amendment exists because, erroneously, some have insisted that the right to keep and bear arms is a state (as in Ohio, Texas, Florida) right and not an individual right. However, it is clear that the first clause — "A well regulated militia being necessary to the security of a free state" — means a free America. The word "state" also means nation/country, such as "the State of Israel" or "the Arab States" or "Secretary of State." In other words, the nation can best form a well-regulated militia (army/navy) if its militia (originally, men between the ages of 18 and 45) are free to keep and bear arms.

With the ratification of the 13th, 14th and 19th amendments, all of-age Americans were recognized as full, ruling-class citizens. Arms possession was — and still is — the signature of being a citizen, not a subject to some monarchy and most assuredly not mentally inept, a child, a felon or a substance abuser.



passed according to the Constitution), the individuals' homes could be used.

With today's army being a self-sufficient unit, it seems like an out-of-date amendment. But if fighting were to occur within the borders of this country, the quartering of soldiers and their weapons, supplies and vehicles would become a reality, especially for those in rural areas.

AMENDMENT IV

Search & Seizure. Ratified, 1791

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated,

Each person, as an individual, has the constitutionally recognized right to be secure (free of fear of loss) in their persons (on their body or clothes), houses (living quarters), papers (personal records) and effects (anything else the person owns or controls) against unreasonable (not justified) searches (visual or physical inspection) and seizures (arresting a person or taking possession of items found in a search), and this right shall not (mandatory) be violated (by the government). In other words, each person is entitled to be free of the fear of arbitrary government arrest or inspection and confiscation of his or her personal effects except when there are bona fide reasons to conduct such searches and seizures.

and no warrants shall issue, but upon probable cause,

The only way a person or his or her property can be searched (without consent) and made subject to seizure is by having a warrant (written document issued by a court, i.e., signed by a judge) issued. In addition, this warrant must be based on probable

OTHER'S RIGHTS: Violating the rights of others is cause to restrict gun rights. Allowing certain persons, such as children, felons or drunks, to possess firearms most assuredly creates a substantial risk of loss of someone's life or liberty. However, restricting the right of a law-abiding, bona fide citizen from carrying a firearm that is concealed from public view where it cannot induce panic or be available to a snatch-and-grab thief does not present a substantial risk of damage to anyone. Likewise, machine guns, modern sporting rifles or short-barreled shotguns, while in the possession of law-abiding citizens, are of no danger to others.

Constitutional rights are only such when they don't infringe on the Constitutional rights of others. One's right to swing his fist ends where the other person's nose begins. Of course, if one keeps his fist concealed in his pocket, he is violating no one's rights. On the same token, if a law-abiding citizen goes about his legal business with a firearm concealed in his pocket, he is no more infringing the rights of any other person than the theater-goer who keeps the word "fire" concealed in his mouth.

Some citizens might wish to exercise their right to the "pursuit of happiness" by not wanting to be in the presence of guns. On their own property, not accessible to the public, they can do as they please. However, where public property is involved, such as court houses, police stations and legislatures, guns can be restricted by instituting the use of metal detectors and storage boxes in which the carrier can store his or her gun until he or she leaves that secure area.

But, what about the reasonableness factor? Other "rights," such as those found in the 3rd, 4th and 8th Amendments, are subject to this doctrine of reasonableness. Why not the 2nd? Anti-gunners might argue that, under the reasonableness doctrine, it is reasonable to ban certain types of arms or exclude bearing of arms into specified locations without incorporating metal detectors/lock boxes.



cause (reasonable belief that criminal activity is involved).

supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

The “probable cause” must be based on a sworn or affirmed statement and the warrant (written document) must describe the location to be searched and the individual or the items to be seized/confiscated. Someone — usually a law enforcement officer — must swear (or affirm) to the judge that he or she believes the reasons for wanting the warrant are genuine or the source of his or her information is considered reliable (think confidential informant).

Many judicial opinions and court cases have defined and refined this most basic of rights. To balance the right of law enforcement officers to be “secure in their persons” (free to protect themselves from surprise assault) with the citizen’s rights under this amendment, some types of searches and seizures are now permitted without warrants, i.e., “pat-downs” to protect the officer or a search incident to an arrest.

AMENDMENT V

Due Process, Grand Jury, Double Jeopardy, Self-incrimination, Ratified 1791

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury,

No one can be held to answer (forced to present a defense) for a capital crime (punishable by death) or otherwise infamous crime (grossly criminal, shocking or evil act or felony) unless on a presentment or

Unlike other articles and amendments, there is no such provision for “reasonableness” in the 2nd Amendment. Discretion is not part of the right to bear arms. In other portions of our Constitution, we see the following discretionary wording:

Article I, Section 4: “Each house may determine the rules ...”

Amendment III: “... but in a manner prescribed by law.”

Amendment IV: “... against unreasonable searches ... upon probable cause.”

Amendment VIII: “Excessive bail ... nor excessive fines ... nor unusual punishments ...”

If the framers of the Constitution had intended for the bearing of arms to be anything other than what it says, they would have included subjective words or terms, such as “reasonable,” “excessive,” “prescribed-by-law,” “upon-probable cause,” “unusual,” or “may” in the 2nd Amendment.

Reading discretionary or reasonableness provisions into the 2nd Amendment of our Bill of Rights is no different than reading the 1st Amendment to say, “Congress shall make no unreasonable law respecting an establishment of religion ...” If the legislature or the courts are permitted to insert reasonableness into the 2nd Amendment, what’s to prevent them from saying a national church or attending church only on Tuesdays is not unreasonable? Not in America — not yet anyway!

indictment (formal written statement) of a grand jury (a jury for the sole purpose of examining criminal accusations against persons to determine if there is enough evidence to bring formal charges on which the person will be tried in court). No one can be made to defend himself or herself against a serious (felony level) crime unless a grand jury has first looked at the evidence and issued an indictment.

The importance of a jury is noted three times in the amendments. The 5th Amendment covers criminal grand juries, the 6th safeguards criminal trials and the 7th preserves civil protection. Juries composed of laymen have been attacked for their inexperience in dealing with complex and emotional issues. There have been many attempts to alter our form of judicial proceedings from instituting professional jurors to relying on judges exclusively. Though federal judges, being appointed for life, are positioned to safeguard our rights, they are not immune to political pressure due to the fact that the hand that feeds them belongs to the government. Juries, however, are beholden to no one.

except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger;

This clause excludes members of the Army, Navy and National Guard (when they are on active duty during a war or when protecting the public). Only Congress has the power to establish military code of conduct and military discipline. (Article I, Section 8).

nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb;

Fearful of the English practice of keeping persons in prison after acquittal “until more proof came in,” our framers made certain no

SUMMARY: The 2nd Amendment RKBA is a conditional absolute right: conditional inasmuch as restrictive conveyances can only be based on citizenship and the rule of other's rights. In other words, if you are not precluded from owning a gun and your exercising of this right does not infringe on anyone else's right, you can bear any type of arm anywhere you wish. Until such time as the Constitution is amended, keeping and bearing any type of arms is an intrinsic and absolute right for all citizens. On the other hand, non-citizens do not have an absolute right to a firearm. However temporary that condition might be, the “American ruling class” (a.k.a. voters), if they so desire, can change the definition of citizen or establish some restrictions, but only by amending the Constitution. Though voters can change the Constitution and are empowered to repeal portions or amendments thereof, they cannot abolish intrinsic and fundamental rights, such as the right to self-protection and the means to maintain that right.



one could be tried for the same crime twice. In an effort to right some alleged wrongs in our imperfect system, Congress has passed a number of laws that might be in violation of this clause, such as charging a person in federal court with criminal civil-rights violations after a state court had found the person not guilty when tried on a different charge for the same act. Without the power of jury nullification, this possible usurpation of power might not be addressable.

nor shall be compelled in any criminal case to be a witness against himself,

The prosecution in all criminal cases must prove guilt without requiring the defendant to testify. This doesn't mean the defendant cannot testify, only that he or she cannot be forced to testify.

nor be deprived of life, liberty, or property, without due process of law;

A person cannot be deprived of his or her life (be executed), liberty (be jailed) or property (be fined, have it confiscated) except with due process of law (the law of the land, the established form of legal proceedings, such as the court system or certain bureaucratic procedures). The 14th Amendment also contains the same due process wording.

nor shall private property be taken for public use, without just compensation.

If the public (the government) needs certain property, it has the right to take it for public use as long as the owner receives just compensation (a fair price). No one person has the right to stand in the way of progress of the community. The courts continue to struggle with the definition of "public use."

AMENDMENT VI

Jury Trial, Rights of the Accused.

Ratified, 1791

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial,

After charged with a crime, the accused is entitled to a speedy (without unreasonable delay, usually a set number of days as defined by statute) and public trial (no trial can be held in secret). Without these safeguards, one could be deprived of liberty while being held for extended periods of time and without ever going to trial. Though it might be embarrassing to be exposed to a public trial, the consequences of secret trials would be an invitation to wholesale violations of other rights. The right of a public trial is also consistent with the right of others to know who is on trial and for what. The right to a speedy trial is subject to different interpretations state by state.

by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law,

One of the complaints of the colonists in the Declaration of Independence was "for transporting us beyond seas to be tried for pretended offenses." Therefore, the framers included not only in this amendment but also in Article 2, Section 3, of the Constitution, the provision against trials removed from the location where the crime occurred. An impartial jury means one made up of open-minded and unbiased citizens. When a judge "imparts" his opinion to a jury as instructions or a charge, that jury is no longer impartial.

and to be informed of the nature and cause of the accusation;

Every person accused (charged by the government) of a crime is entitled to know exactly what he is accused of (which law he is charged with violating and how he is alleged to have violated said law).

to be confronted with witnesses against him; to have compulsory process for obtaining witnesses in his favor,

Again, the early Americans had had enough of the English practices of presenting depositions in court where the accused was unable to face the witness, much less cross-examine him. Compulsory process for obtaining witnesses means the right and power to subpoena witnesses.

and to have the assistance of counsel for his defense.

Anyone charged with a crime that could result in his or her being deprived of life, liberty or property has the right to be represented by an attorney (someone practiced in the law). This right has been interpreted by court decisions to include the right to a government-paid attorney if the accused cannot afford his or her own attorney.

AMENDMENT VII

Civil Law. Ratified, 1791

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved,

Common law: the system of jurisprudence developed in England that is the basis of law in the United States whose rules rest upon custom and usage or upon court rulings rather than upon enacted laws.

Though the right to a jury trial for common law civil suits is guaranteed, suits at common law do not include suits in equity, divorce,

JURY INSTRUCTIONS

A practice has grown among the judiciary to reserve, exclusively, to a trial judge, the power of judging the law. This is not to say that judges, per se, refuse all knowledge of the jury's right to judge the law. Many courts have recognized this right. However, what the judicial branch fails to do is to tell a jury of their rights, while at the same time not allowing an attorney to do so either (*Sparf & Hansen v. U.S.* 1895, 156 U.S. 102). The only exception to this "judge's law" is for the defendant to take the stand, and acting as his own attorney (*pro se*), tell the jury how the law he is charged with violating is unconstitutional.

There are two primary reasons judges insist on being the only definer of the law:

1. Because they believe common jurors are just that — regular people who are not sophisticated enough to understand the law unless a judge explains it to them.
2. Judges do not want to surrender their self-granted power to attorneys.

Judges officiate in criminal jury trials for the primary purpose of ensuring a fair trial. They are referees or umpires whose duties lie in making sure the playing field is level, not to pass judgment. Judgments are reserved to the jury. Juries decide facts, and when appropriate, judge the law as well.

When a jury judges the law, it has been commonly called jury nullification. It could be better labeled jury prerogative — recognition of the jurors' right and duty to judge the law as well as the facts of a case. Judging the law means comparing a law in question against an accepted standard. In America, the only standard to which a law can be assessed is a constitution, either state or federal. Jurors

trust enforcement, suits for injunction, accounting, contract enforcement and certain other matters.

and no fact tried by a jury, shall be otherwise reexamined by any court of the United States, than according to the rules of the common law.

After a jury has determined the facts (deeds done, words said or observations made) of a case, no judge or court can change this determination. Only points of law, constitutionality issues and rights violations are open to appeal by other courts and judges.

EDITOR'S NOTE: A judge can nullify a jury's verdict if he or she believes it was made in error. At the end of a criminal trial that has an unfavorable outcome, most lawyers will ask for a "directed verdict," which usually contradicts the jury, in order to seek liberty for their client.

AMENDMENT VIII

Excessive Bail/Fines, Cruel/Unusual Punishment. Ratified, 1791

Excessive bail shall not be required,

Bail is defined as money or property posted (placed in trust), after arrest or indictment and before trial, to ensure that the person returns to face the charges. A reasonable bail is one large enough to deter escape, but not so large as to be beyond the accused's means. Under the 6th Amendment, the accused has a right to a speedy trial in order to prevent him being kept imprisoned without being given a trial — a chance to present his defense. The excessive bail clause performs the same function, i.e., prevents a person from being deprived of his liberty due to a bail that is so

do not have the license to judge a law to their personal standard or opinions. To allow one to whimsically decide whether a law is good or bad based upon a personal view would be inviting judicial lawlessness.

The 6th Amendment to the U.S. Constitution states, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury ..." It doesn't say by a judge. It specifies an impartial jury. A government employee, using his or her powerful position to "charge" or "instruct" a jury, is violating the 6th, 9th and 10th Amendments of the Constitution. A jury that has been subjected to this usurpation of power is no longer impartial. It has been influenced to the judge's uncontested bias.

Our Constitution, our rule-of-law, was written by laymen for laymen. Nowhere in its articles or amendments is the judicial branch empowered to tell a jury anything, much less how to apply a law. Some states, in open confrontation to the Constitution, have even gone so far as to require jurors to report fellow jurors who refuse to follow the law as directed by a judge.

Our forefathers realized that judges, being human, carry their own prejudices. Because of this, the framers of our Constitution did not require judges, during a jury trial, to swear to tell the whole truth and nothing but the truth. In all criminal proceedings, witnesses who are going to testify before a jury must swear, under penalty of perjury, to tell the truth. This rule applies to everyone, including lawyers, police officers and other government employees, even though they have sworn an oath to their office and the Constitution. The judge is immune to this rule of law because he is not expected to testify. Unfortunately, a practice has evolved where judges do testify in the form of their "instructions" or "charges" to the jury. It is during this "testimony" — this propagation of their own power — that the judge will not tell the whole truth (the whole truth being a jury's right and power to decide the constitutionality of a law).

high as to preclude his ability to be free to prepare his defense.

However, in order to protect the population or ensure the presence of the accused at trial, bail has been denied persons deemed dangerous or whose flight seemed certain. Though this practice has been upheld by the courts, it is in violation of this amendment. A better way to deal with securing extremely dangerous or flight-prone criminals might be through enacting a new amendment.

nor excessive fines imposed,

Fines, like bail, should fit the circumstance. A fine of \$10,000 per day against a highway contractor for failing to complete the work on time might not be excessive when considering the totality of the situation. That amount of money levied against a mom and pop grocery store that refused to shovel the snow from their walk would most likely be considered excessive.

nor cruel and unusual punishments inflicted.

These terms evolve as society civilizes and technology emerges. Being kept in a stone building without running water and sufficient heat was not cruel or unusual circa 1800. Today, having to do without those amenities most assuredly would be considered cruel and unusual. Execution of those convicted of capital crimes has never been ruled cruel or unusual, though someday it might.

EDITOR'S NOTE: This is an interesting interpretation. Judges are guided to be impartial, and they only provide instructions to juries after the attorneys have had a chance to provide their own set of instructions to the judge for his approval.

REWARDING CRIMINALS

I don't believe we will disagree that crime is rampant, criminals are coddled and we're all tired of being victims. In my opinion, our liberal bent has brought us to a lifestyle where criminals are rewarded instead of punished. The rewards are

1. Peer recognition: Being acknowledged by our peers is an important human desire and goal, even for felons. Fellow inmates show respect for criminals who commit serious crimes.

2. Healthcare: Criminals, not being the type of people who hold regular jobs and have healthcare, subconsciously want to be sent to prison where they know they will be treated for what ails them.

3. Basics of life: After a run of "bad luck," most criminals end up hungry, tired and in need of food and shelter. A nice, clean, air-conditioned jail cell with TV, clean sheets and clothes is an enticement to one who is down and out.

Some among us will commiserate with these "unfortunates" and believe they are entitled to all the help society is able to tender. This entitlement mindset has been an interesting experiment.

Unfortunately for us, someone has to be a victim so these "unfortunates" can receive their entitlements. In other words, if Fred Felon has a toothache, is hungry or needs his ego stroked by fellow felons, one of the law-abiding citizens among us must suffer.

AMENDMENT IX

Unlisted rights

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

The 9th Amendment is seldom quoted or referenced because, at first glance, it seems confusing and obscure. However, upon careful dissection, it is clear it was written as a reminder that the government is not permitted to negate or even reduce in meaning any of the “people’s” rights. Beginning with the preamble to our Declaration of Independence and continuing through each article and amendment of the Constitution, the underlying uniform theme confirms our forefathers’ design to protect individual rights.

With the assistance of common definitions from known and accepted dictionaries, the simplicity of this amendment is explained:

- **Enumeration:** List of items, such as the rights listed in the Constitution, e.g., right to keep and bear arms, right to peaceable assembly, right to free speech, etc.
- **Certain:** Fixed, settled or determined, previously established things, i.e. inalienable rights that cannot be taken away.
- **Rights:** That which a person has a just claim to, a privilege or immunity. Something that belongs to a person by law, nature or tradition. Rights are either contractual inasmuch as they are established by statute, constitution, court order, etc., or by nature, such as the inalienable right to life.
- **Shall:** Mandatory, must be done. Contrary to this explicit demand of the 9th Amendment, the courts, in many instances, have ignored their obligation.

- **Construed:** Interpret: infer, deduce, to construct. To understand or explain the sense or intention of, in a particular way, or with respect to a given set of circumstances. The very act of incorporating the 9th Amendment into the Bill of Rights is construed to guarantee that these listed rights were not the only rights reserved for the citizens.

- **Deny:** To refuse to accept the existence, truth or validity thereof. Lawmakers and some courts, in violation of the mandatory “shall” of the 9th Amendment, have consistently refused not only to accept the existence, truth and validity of our inalienable rights to life, liberty and the pursuit of happiness but also to secure (guarantee) these rights. To acknowledge a right but deny a means to enforce or protect the right is not a right at all.

- **Disparage:** To lower in rank or reputation, degrade. To depreciate by indirect means. If our power to defend our unalienable rights is degraded, depreciated or reduced, then those rights, in violation of this amendment, have been disparaged. There is no greater degradation of a right than to restrict the enjoyment of the right for lack of a way to defend it. The prime example is statutory gun control.

- **Retained:** To keep in possession, to hold secure or intact. Rights, listed or unlisted in the Constitution, belong to us, the citizens of the United States, and are not subject to political correctness, disparagement, denial or removal.

“The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials ... fundamental rights may not be submitted to vote; they depend on the

outcome of no elections.” (Justice Jackson for the U.S. Supreme Court in *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 [1943])

- **People:** Human beings making up a group or assembly or linked by a common interest. The citizens of the United States of America.

- **Others:** Being the ones distinct from those first mentioned or implied. Refers to the rights that are not listed in the Constitution as opposed to the certain rights that are listed there. These other rights are the inalienable rights that include, but are not limited to, those self-evident truths: “life, liberty and the pursuit of happiness.”

Thus, the 9th Amendment could be stated in these words:

The number of rights listed in the Constitution shall not be the only rights kept by the people and these other rights shall not be degraded, depreciated or negated by refusal to accept the truth or existence thereof.

Or, in still other words:

The rights listed in the Constitution are not our only rights, and what other rights we have cannot be taken away or even reduced in power or stature.

FORCING LIFE, LIBERTY AND HAPPINESS ON US

Modern American Law, Volume 16, Constitutional Law, (Blackstone Institute, 1921) also defines this amendment in simple terms (author’s notations added in brackets): “... a declaration intended to preclude [rule out in advance] the view which might possibly be put forward that the specific enumeration of certain rights was exhaustive [complete, thorough] and therefore no others could be claimed.” Here, the authors of this noted text point out that the framers of the Constitution were so fearful of future usurpation of government power, they wrote this hands-off-all-of-our-rights into the Bill of Rights.

Of the few court cases that have examined the 9th Amendment, the *United States v. Cook* [(1970, WD Pa) 311 F Supp 618] did define the objective of this least cited amendment: “The purpose of the 9th Amendment is to guarantee to individuals those rights inherent to citizenship in democracy which are not specifically enumerated in the Bill of Rights.”

We didn’t create a government to define or tell us what happiness, liberty or life is. That’s the kind of authority we had when the King of England, with his edicts, orders and laws, was telling our forebears what behavior was required to be a proper subject. When we had had enough of being told what made us happy, we created a government to protect our right to determine for ourselves, individually, what made us happy and secure and to determine what lifestyle we wanted. Almost 250 years of evolution has brought us back to where we started. Regardless of many well-intentioned legislators, judges and bureaucrats, we have returned to a government that, in far too many instances, is forcing its definition of Life, Liberty and the Pursuit of Happiness on us.



AMENDMENT X

Limitations on Federal Powers.

Ratified, 1791

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states,

The federal government cannot pass any laws or acts unless specifically permitted to by the Constitution. The government, condoned by the courts, has violated this many times. The courts have upheld many federal laws and acts of Congress where the logic and justification of acceptance cited is the doctrine of the three sub-powers: implied, resulting and inherent powers. Some historical examples of use of these non-enumerated powers are the purchase of Louisiana, Florida and Alaska; the construction of the Panama Canal; and land grants to railroads and educational institutions.

The government's reading into the Constitution powers that are not explicitly there (implied, resulting or inherent powers) poses a grave danger to society and to the republic; just because the deals for the land purchases turned out for the best doesn't make the skirting of the 10th Amendment any less illegal. Additional examples of actions undertaken on the strength of these assumed powers include the Vietnam War, the Gulf War, flood control projects, disaster relief acts and the withholding (or threatened withholding) of tax money from states for refusal to comply with questionable federal mandates, such as vehicular safety, highway speed limits and punishment for domestic violence offenses or suspected offenses.

are reserved to the states respectively,

Those powers not prohibited by the Constitution are reserved (set aside, retained) for each state. Examples of states'

It is obvious that the framers of our body of laws intended for the government to keep its hands off our inalienable, unlisted and enumerated rights. Not only does our sacred Constitution put certain of our rights into print, it also creates the rule of law forbidding the government from denying or disparaging (taking away or lowering in value) any of our listed or unlisted rights.

There is no Constitutional requirement placed on any governmental body to protect the individual, to protect his or her rights. Part of being an American is accepting the responsibility to secure individual rights, such as the right to life or liberty and all the other unalienable rights. Therefore, in order to secure these rights, each individual has the implied right to use the means available, which today includes personal weapons, the individual arms needed to protect each person's life and liberty and all other unalienable rights. The arms of choice include rifles, shotguns and handguns.

If one has the right to life but is denied the means (use of arms) to secure this right, then the right to life is disparaged (lessened) and is not a right to life at all.

Finally: What are some of these other rights — none of which you will find listed in the Constitution?

• **The right to be presumed innocent until proven guilty:** That's not part of the 5th or 6th Amendment as many mistakenly believe.

• **The right to protect yourself, your property and your family:** Next time some "rights-challenged" person proposes or supports a gun control law, ask them if that isn't "disparaging" your right to self-defense.

• **The right to own personal and real property:** Can you imagine laws, or worse, some bureaucrat, saying you must have their permission to own anything?



rights include laws regulating marriage, divorce, contracts, state court organization and other matters pertaining to the public welfare.

or to the people.

“Or to the people” means left up to the voters to decide. Under the republic form of government, we the people elect agents (senators, representatives, executives) to conduct the business of the country in accordance with the powers granted the government under the Constitution. On the national level, there is no provision for holding a referendum (direct vote of the people) to decide anything. The states vary as to what can and cannot be put to a vote by the people. Some states allow more issues to be decided by popular vote than others.

America is not a democracy; it is a republic. A democracy is where a nation is governed by the concept of “majority rules.” In a true democracy, the people decide all issues by whatever the majority wishes. This is accomplished either by direct election or indirectly through elected representatives. Without any guiding provision, such as a constitution, the rules of conduct change as the majority of the population changes. If the majority is comprised of X persons, they can repress or control Y persons. If there is a shift in population where Y persons suddenly become the majority, then they are free to discriminate (retaliate with their vote) against X persons. The difference between a true democracy and a republic is, in a democracy, the majority rules, i.e., there are no controlling factors (constitutions) to hinder the will of the majority of the citizens or their representatives.

A republic is a nation operating under a rule-of-law (constitution) where its citizens have the sole power to elect representatives to enforce the rule-of-law and conduct

• **The right of inheritance and bequeathment:** You think inheritance taxes are unfair? Suppose the government took it all!

• **The right to privacy, to be left alone:** “The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness ... They conferred, as against the government, the right to be let alone — the most comprehensive of rights and the right most valued by civilized man.” [Justice Brandeis, for the U.S. Supreme Court in *Olmstead v. United States* (227 US 438, 478)]

the nation's business to the best interest of its citizens. In a republic, the citizens/representatives can only act in accordance within the established rules-of-law.

Some things, especially on a national level, such as foreign policy (war), could (and should) never be decided by popular vote. The cumbersome referendum method would negate parry and feint tactics and could expose soldiers and civilians to unnecessary losses while awaiting the voters' decision on whether to attack or retreat. On the other hand, voting for matters of great national interest should not be left up to .000002 of the population (Congress). In spite of today's extraordinary means of communication (compared to 18th century technology), the people's representatives sometimes have no reliable means of determining what the voters really want.

AMENDMENT XI

Suits Against a State. Ratified, 1795

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

Prior to enactment of this amendment, citizens of another state or foreign citizens/subjects could sue a state over money matters or state laws in the federal courts. Now, the original suit must be brought in the state in which the complaint is being made. It also prohibits citizens of foreign countries from suing the United States or any state without the state's consent.

AMENDMENT XII

Election Procedures for the President and Vice-President. Ratified, 1804

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

the death or other constitutional disability of the President.] The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

The electors (described in Article I, Section 2 and Article II, Section 1 of the Constitution), in their respective states, meet, vote for the presidential and vice presidential candidates and submit the results of this vote to the president of the Senate. If, after counting the votes, no candidate receives a majority of votes, the House of Representatives, by ballot, determines who shall be the president. For this House vote, each state has only one vote. If the House does not elect a president by Jan. 20 (date changed from March 4 by the 20th Amendment), the person elected vice president assumes the position of president.

If the Electoral College vote does not produce a majority, the House of Representatives chooses a president.

If no vice presidential candidate receives a majority of votes, the Senate decides, by vote, who shall be vice president.

Any person not meeting the qualifications of president (described in Article II, Section 1) cannot be vice president.

AMENDMENT XIII

Slavery Terminated. Ratified, 1865

SECTION 1

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

Contrary to popular belief, the Civil War was not fought in principle to uphold the honorable stand that slavery was wrong. In the strict sense, it was fought to assert the power of the federal government over the states. Congress, by this amendment (which was not ratified until after the Civil War), had decreed that slavery and forced labor, except that involving prisoners convicted by due process of law, were illegal in the U.S. and any of its territories. Certain Southern states were unwilling to comply with this mandate and thus proceeded to form their own country even though all of these Southern states had ratified the Constitution and therefore were obliged to conform to its directives. Seceding from the union, however, was regarded by the Northern states as tantamount to treason and hence the Northern states, all-loyal to the Constitution, felt obligated to quell this insurrection.

Under the Peonage Act of Congress (1867), it has been held to be slavery under this amendment for a hired person to be kept imprisoned or under guard until he completes contracted work, and a state law that allowed for involuntary servitude whereas a person could work off a criminal fine paid by a surety. On the other hand, city ordinances requiring city prisoners to work out their fines in road gangs are not in violation of this amendment. In other words, according to the courts, it's not slavery as long as the work is done for a government body.

ARTICLE XIII, SECTION 2

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

Congress shall have the power (authority and means to use force) to enforce (make good) this article (amendment) by appropriate (necessary) legislation (laws, acts, statutes). This section was the first of what has been called “enabling acts.” These were so named because not only does the amendment establish conformity, it also specifies who shall have the right to enforce it.

AMENDMENT XIV

Due Process, Equal Protection, Citizenship, Apportionment of Representatives and Public Debt. Ratified, 1868

ARTICLE 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.

Some of what this section grants the following section disparages (depreciates, dilutes). The rights of citizenship usually include the right to vote; however, Section 2 allows only males over the age of 21 this power. Women were excluded until passage of the 19th Amendment, 52 years later. Though the term “all persons” did include African Americans, it specifically excluded American Indians who were not taxed.

Under Section 1, all persons born or naturalized (granted citizenship rights) in the U.S. and subject to the jurisdiction thereof also are granted state citizenship in the state they reside. Excluded are children

born of foreign ministers, ambassador or consuls while in this country, because they are considered to be born in their own country (their embassy) and thus not subject to our laws.

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States;

All rights (also known as privileges and immunities) a U.S. citizen had under the Constitution, such as those listed as well as unlisted rights, could not be negated, ignored or denied by a state law. Some felt the 9th Amendment applied only to the federal government, thus this reiteration tells states not to disparage our rights. We’re still struggling with state laws that seem to violate the right to keep and bear arms.

nor shall any state deprive any person of life, liberty or property, without due process of law;

Additionally, states were not to deprive any person (even if he or she was not a U.S. citizen) the specific rights of life, liberty or property except with due process of law (the law of the land, the established form of legal proceedings established such as the court system in place or certain and accepted bureaucratic procedures).

nor deny to any person within its jurisdiction the equal protection of the laws.

States could not make and enforce laws that treated persons (even if they were not U.S. citizens) differently. Now, each person, regardless of where he or she was in the country, could expect the law to protect him or her with equality to others. For example, the state of Florida couldn’t pass a law giving Floridians the right to a jury trial but deny this same right to non-Floridians charged with a crime while in Florida.

ARTICLE 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.

The number of representatives of the people (in the House of Representatives) shall be determined by the number of persons (Indians and women were excluded) in each state. This provision made African Americans count as citizens (eliminating the three-fifths compromise), at least for purposes of determining the number of representatives.

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

This guarantees “citizens” the right to vote in national elections and for some state offices as long as the voter is of the proper age, is a citizen of the U.S. and has not been involved in a rebellion or other crime. This section was changed by the 26th Amendment.

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.

For purposes of establishing the number of representatives, the non-eligible 21-year-old males could be subtracted from the total. In other words, if a state had 10,000 male

citizens, but 2,000 of them were ineligible to vote because of “participation in rebellion or other crime,” then those 2,000 could be deducted from the 10,000 for the purpose of determining how many representatives that state could have in Congress. It was aimed at reducing the power of the Southern vote after the Civil War. This clause has never been enforced.

ARTICLE XIV, SECTION 3

No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof.

This section was aimed at preventing members of the Confederacy who had previously sworn to uphold the U.S. Constitution from holding federal or state office.

But Congress may by a vote of two-thirds of each House, remove such disability.

President Andrew Johnson, on Christmas day in 1868, issued a full pardon granting unconditional amnesty to all who had been engaged in the Confederate cause. In 1898, Congress passed the Act of Oblivion that negated this section of the 14th Amendment. This act was most likely unconstitutional inasmuch as only another amendment can change an amendment to the Constitution.

ARTICLE XIV, SECTION 4

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned.

This clause of Section 4 was passed to acknowledge the federal government's intention to pay all debts the Union had incurred during the Civil War.

But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States,

Here the Union made it clear that it would not pay any debts incurred by the Confederacy. France and England suffered great losses as a result of financial aid they rendered the Southern states.

or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Southern slave owners, who lost the value of their emancipated (freed) slaves, could not make monetary claims for this loss.

ARTICLE XIV, SECTION 5

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

This is the enabling act that gives Congress the power and authority to enforce, by appropriate (necessary) legislation (laws, acts, statutes), the provisions (requisites, requirements) of this article (amendment).

AMENDMENT XV

**Voting Rights Based on Race Denied.
Ratified, 1870**

ARTICLE XV, SECTION 1

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

Though the 14th Amendment granted citizenship to all males, some states resisted allowing former slaves to vote, thus compelling Congress to spell it out for them. With passage of this amendment, race, color or the fact that one had been a slave could not be a bar to voting in national and state elections.

EDITOR'S NOTE: This is true in fact but not in practice. Most Southern states created other blockages to stop African Americans from voting. It was not until the 1960s that all obstacles were finally removed (i.e. voter registration, gerrymandering, etc.).

ARTICLE XV, SECTION 2

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

This is the enabling act that gives Congress the power and authority to enforce by appropriate (necessary) legislation (laws, acts, statutes) the provisions (requisites, requirements) of this article (amendment).

AMENDMENT XVI

Income Tax. Ratified, 1913

The Congress has the power to lay and collect taxes

Congress was granted the power (authority) to lay (impose) and collect taxes (required percentage of a specified asset to finance the government).

on incomes,

Only on money earned by individuals and businesses.

from whatever source derived,

Congress reserves the right to decide what income can and cannot be taxed. Certain philanthropic organizations, select bonds and certain investments, at the will of Congress, are exempt.

without apportionment among the several states, and without regard to any census or enumeration.

This clause negated Article I, Section 2, which required the amount of taxes to be apportioned (divided according to the census of the individual states).

AMENDMENT XVII

Election of Senators. Ratified, 1913

The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof, for six years; and each Senator shall have one vote.

This amendment changes part of Article I, Section 3 of the Constitution. Prior to this amendment, senators were elected by their state legislatures.

The U.S. Senate is to be made up of two senators from each state (there are 50 states today, thus 100 Senators) that are to be elected by popular vote of the people thereof. That is, the voters of each state are to elect their state's two senators. The term of office is to be six years and each senator is entitled to a separate vote on matters before the senate. (The two senators vote independently of each other, thus giving their state two votes instead of the former one vote per state.)

The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

Each state is allowed to set the standards for what constitutes a qualified voter. These qualifications have become uniform to most states and now include having U.S. and state citizenship, being at least 18 years of age and being registered (with name and address on an official list of qualified voters). See the 26th Amendment.

When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies: Provided, that the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

If a U.S. senator leaves office before his term expires, the executive authority (governor) must hold an election to fill this vacancy. The state legislature can (has the option to) empower (authorize) the governor to fill the open office until the election is held by the voters of the state.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

This clause applied only to those in office at the time of ratification.

AMENDMENT XVIII

Prohibition. Ratified, 1919

ARTICLE XVIII, SECTION 1

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

ARTICLE XVIII, SECTION 2

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

ARTICLE XVIII, SECTION 3

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

This entire amendment was repealed by the 21st Amendment.

Early in this century, it was believed to be in the best interest of this country to ban the sale and consumption of alcoholic beverages. Those in power, back then, were believers in doing what they wanted to do in the legal and proper way. First, they

discussed passing laws to ban booze. But, after a cursory study of the Constitution, it was clear there was no provision in this great body of supreme laws to permit the “majority rule” or any government body to outlaw alcohol, sans a constitutional act. Thus the 18th Amendment was born, passed and ratified all in due order. This formal and official constitutional decree forbade “the manufacture, sale or transportation of intoxicating liquors ...” To bow to political correctness or even majority rule is not the way this country was set up to run. We are a nation of constitutions before we are a nation of laws being subservient to constitutions. The Congress, realizing they did not have the right to pass a prohibition “law,” honored their sworn duties and did the right thing by legislating prohibition as an amendment rather than as a law.

Fourteen years later, with the onset of the Great Depression, thinking had shifted. With this shift, came three revelations:

- It was now considered in the best interest of the country to encourage legitimate liquor-producing businesses. This not only made for a taxable commodity, but in an era of economic downturn, a major fiscal impact came from employing men in alcohol production, transportation, bottle, label and box manufacturing industries.
- Enacting amendments to the Constitution is burdensome, unwieldy and time-consuming. In addition, federal politicians found it insulting and repugnant to submit their wise and guiding acts to state legislators for ratification.
- The federal government felt it had to find some form of employment for the now out-of-work liquor agents. Up to that time, it was well established that if one worked for the

government, one could expect low pay but a layoff-free job.

Just before the repeal of prohibition, informal studies and polls were taken. The preordained results indicated that the greatest threat to America was the proliferation of machine guns and other dangerous ordnance. This was evidenced by sensational news stories about mass killing by the mobsters who controlled the illicit liquor industry. Nevermind that these guys were out of business with the repeal of the 18th Amendment.

The government again faced the same dilemma it had in 1917; there were no provisions in the Constitution that would allow for the banning or controlling of machine guns or any other weapons. In fact, the Constitution's 2nd Amendment expressly forbade infringing the right to keep and bear arms. The correct and legal way, if the people had desired a change, would have been to repeal the 2nd Amendment or enact a new amendment to control or ban undesired guns. But a new amendment takes time, and then there's that humbling matter of having to beg the states to ratify it and, of course, the fact that the states might not do so. Besides, the government was convinced it needed to find jobs for those soon-to-be-laid-off liquor agents. The quick fix; the "feel good" way; the "start down the slippery slope" way was to just pass a federal law. Hence the National Firearms Act of 1934 and, eureka, something for the liquor agents to do.

AMENDMENT XIX

Women's Right to Vote. Ratified, 1920

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex.

Though a number of states had permitted the right of women to vote in matters pertaining to their state, some as early as 1869 (Wyoming), the United States denied women suffrage until ratification of this amendment in 1920.

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

This is the enabling act that gives Congress the power and authority to enforce by appropriate (necessary) legislation (laws, acts, statutes), the provisions (requisites, requirements) of this article (amendment).

AMENDMENT XX

Terms of Office Revised. Ratified, 1933

ARTICLE XX, SECTION 1

The terms of the President and Vice President shall end at noon on the 20th day of January,

This section, known as the "lame duck clause," shortened the time a president and vice president could hold office after a presidential election if they had not run for reelection or had been voted out. Previously (under the 12th Amendment), the time for leaving office was March 4, a period of almost four months after the voters had voted. With this much time, the "lame duck" president and his vice president who would be on their way out of office could stall or disrupt the incoming administration at a

time when fresh leadership might urgently be needed.

and the terms of Senators and Representatives at noon on the 3rd day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

By setting the date for the senators and representatives to take office 17 days before the president took office, it allowed for Congress to be ready to do business in a timely manner.

ARTICLE XX, SECTION 2

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

This changed the “first Monday in December” clause of Article I, Section 4 and gave Congress the power to change that date without amending the Constitution. Under the old system, congresspersons were elected to office in November but were not actually seated until December of the following year, more than a year later.

ARTICLE XX, SECTION 3

If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President.

If, between the time the president is elected (becomes the president elect) and the date on which he is to assume office (Jan. 20), he dies, the vice president elect assumes the office of president.

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

President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified,

The 12th Amendment did not allow for qualification failures (for being physically unable, not of the required age or other means of disqualification as required by Article II) of a President elect and Vice President elect. This section covers such a contingency.

declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

The Congress now has the power to declare (appoint) an acting president (one who temporarily assumes the duties of president) until such time as a qualified president or vice president is elected. Though none of these scenarios have happened, we are prepared for such conditions that heretofore would have been crippling.

ARTICLE XX, SECTION 4

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

In the event that no candidate receives a majority of the electoral votes (under the 12th Amendment) and any of the persons the House of Representatives might choose for president dies, Congress can decide by enacting legislation to deal with

this dilemma. This also applies to the vice president selection in the Senate.

ARTICLE XX, SECTION 5

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

The Amendment was declared ratified Feb. 6, 1933. Articles 3, 4 and 6 were in effect as of that date. Articles 1 and 2 were not in effect until Oct. 15, 1933.

ARTICLE XX, SECTION 6

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

This was the second time (first time was the 18th Amendment) Congress placed a time limitation on the ratification of an amendment.

AMENDMENT XXI

Repeal of Prohibition. Ratified, 1933

ARTICLE XXI, SECTION 1

The Eighteenth Article of Amendment to the Constitution of the United States is hereby repealed.

The 18th Amendment is (upon ratification) repealed (invalidated, revoked, annulled, cancelled).

ARTICLE XXI, SECTION 2

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

This Section retains federal law against importing or transporting liquors into any state that has its own prohibition laws.

ARTICLE XXI, SECTION 3

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

This is the first time Congress called for ratification by convention (delegates voting by state rather than the legislature voting) as it is allowed to do under Article V.

AMENDMENT XXII

Term Limit of the President.

Ratified, 1951

ARTICLE XXII, SECTION 1

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

No one can be elected President more than two times (thus being eligible to serve a total of no more than eight years). If, however, a person has been president for more than two years of someone else's term (as could happen when the vice president takes over if the president resigns, dies or is forced from office), he can be elected only once (serving a total of six years as president). This amendment was a result of the unprecedented four terms of Franklin D. Roosevelt. Though he died early in his fourth term, the conventional wisdom of the time

feared the power of a person entrenched for longer than eight years.

But this article shall not apply to any person holding the office of President when this article was proposed by Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this article becomes operative from holding office of President or acting as President during the remainder of such term.

This paragraph applied only to the then sitting president, Harry S. Truman, who, after having been sworn in as president upon the death of FDR, was then elected president in 1948. He chose not to run again as a presidential candidate in 1952, though Section 1 would have permitted him to do so.

ARTICLE XXII, SECTION 2

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

Time limit for ratification was limited to seven years.

AMENDMENT XXIII

D.C. Voting Rights. Ratified, 1961

ARTICLE XXIII, SECTION 1

The District constituting the seat of government of the United States shall appoint in such manner as the Congress may direct: A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a state,

The District of Columbia, the geographic location of the federal government, is not a state but has the power to appoint, at the direction of Congress, the same number of electors as if it were a state.

but in no event more than the least populous state; they shall be in addition to those appointed by the states,

Regardless of how many electors the D.C. is entitled to, the number of electors shall not be more than allowed by the state with the fewest people and these electors will be added to those appointed by the states.

but they shall be considered, for purposes of the election of President and Vice President, to be electors appointed by a state; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

The electors representing the D.C. shall come under the same provisions (spelled out in 12th Amendment) as those of state electors.

ARTICLE XXIII, SECTION 2

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

This is the enabling act that gives Congress the power and authority to enforce by appropriate (necessary) legislation (laws, acts, statutes) the provisions (requisites, requirements) of this article (amendment).

AMENDMENT XXIV

Poll Taxes Prohibited. Ratified, 1964

ARTICLE XXIV, SECTION 1

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

Neither the federal government nor any of the states is permitted to stop citizens from voting by requiring a poll tax (tax levied per person rather than on property). Historically, such taxes were used as a means to keep poor people from exercising their right to vote.

Under this amendment, failure to pay any tax cannot interfere with a citizen's right to vote in national elections (president, vice president, their electors and members of Congress), but this prohibition does not extend to state or local elections.

ARTICLE XXIV, SECTION 2

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

This is the enabling act that gives Congress the power and authority to enforce by appropriate (necessary) legislation (laws, acts, statutes) the provisions (requisites, requirements) of this article (amendment).

AMENDMENT XXV

Presidential Succession.

Ratified, 1967

ARTICLE XXV, SECTION 1

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

This Amendment changed part of Article II, Section 1 of the Constitution. Now if the president dies in office, is forced out (impeached) or resigns (quits), the vice president shall (must) be made president. Previously, succession of office, under Article II, Section 1, had lumped removal from office, death and resignation with "inability to discharge the powers and duties of said office." Sections 3 and 4 of the 25th Amendment spell out specific procedures to define and deal with questions of "inability."

ARTICLE XXV, SECTION 2

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

If the vice president is removed from office, resigns, dies in office or becomes president, the president must nominate a replacement. This replacement will become vice president as soon as the Senate and the House approve by a simple majority vote.

ARTICLE XXV, SECTION 3

Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such

powers and duties shall be discharged by the Vice President as Acting President.

If the president determines that he is unable to function in his official capacity as president, he sends a letter to the Senate and House advising them of his problem. After this is done, the vice president becomes the acting president. The president cannot return to office until he is again able to carry out his sworn duties and he notifies both houses, in writing, of his intention to return to duty.

ARTICLE XXV, SECTION 4

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

If the vice president and a majority of the president's cabinet (secretary of state, secretary of the treasury, secretary of defense, etc., see Article II, Section 2) notify the Senate and House in writing that the president is unable to carry out his duties and powers of office, the vice president shall become the acting president. Congress has the power to establish another "group" to act instead of the president's cabinet, if necessary.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive

department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon congress shall decide the issue,

The President may reclaim his office by informing both houses in writing that he is no longer disabled. However, if the vice president and the majority of his cabinet (or such "other group" as determined by Congress) object in writing to both houses within four days disputing the fitness of the president, then Congress shall decide whether or not he is fit.

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

Congress, for the purposes of determining the fitness of the president, must conform to the specified time limits and render a vote by a two-thirds majority of both houses to keep the president out of office. If the Senate or House fail to act in the set time limits or if their vote is less than two-thirds against the president resuming office, the president may retake his office.

AMENDMENT XXVI

Voting Age Limits. Ratified, 1971

ARTICLE XXVI, SECTION 1

The right of citizens of the United States, who are 18 years of age or older, to vote, shall not be denied or abridged by the United States or any state on account of age.

Any citizen (one who owes allegiance to a state or nation by birth or naturalization and is entitled to full civil rights) who is at least 18 years old is entitled to vote on all matters of national or state interest. (This section lowered the age from 21 years as had been specified in the 14th Amendment.)

ARTICLE XXVI, SECTION 2

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

This is the enabling act that gives Congress the power and authority to enforce by appropriate (necessary) legislation (laws, acts, statutes) the provisions (requisites, requirements) of this article (amendment).

AMENDMENT XXVII

Congressional Compensation. Ratified, 1992

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

If senators and representatives vote themselves a raise (or reduction), the law providing for this change in compensation (money or fringe benefits) cannot go into effect until after a representative election is held. They are held every two years. This way, the representative must face an election after voting for a change in compensation.

Glossary

Abridge: To shorten with fewer words; to deprive of rights. An abridged version of a book or statute does not contain all of the words. To have a right taken away or reduced is to have it abridged.

Adjudicate: An issue settled by a judge or court of law. A suit or criminal case that has been finalized by a verdict has been adjudicated.

Amicus Curiae: (a-mye-kus ku-ri-ee) Latin term for “ friend of the court.” Any person may present to a court of law information (in the form of a “ brief”) of which that person believes the court should be made aware. Next time a court is hearing a case of interest to you and you think the court should hear your points, consider writing and submitting your views to the court.

Appellate: Jurisdiction to review appeals. Courts that hear appeals of a lower court’s adjudications are appellate courts. APPELLANTS are those who appeal while APPELLEES are the persons who respond (defend) the appeal.

Attainder: Forfeiture of property and loss of civil rights of a person sentenced to death. A BILL OF ATTAINDER is a law whereas the person is convicted without a trial.

Breach: To break or fail to observe rules. Someone who violates a law has breached the law.

Common Law: Principles of law that are based on custom or judgments of courts rather than enactments of written law. Though our nation is based on custom and historical decrees, we are not a common-law nation. We are a statutory country whereas only conduct expressly forbidden by statute is punishable by law.

Constitution: Basic and underlying system of rules of which all other laws and behavior are judged. The supreme law; the rule of law. Contrary to popular belief, we are not a nation of laws; we are a nation of constitutions.

Constituent: One who has the power to appoint or vote for a representative; a voter.

Crime: An act that has been determined (by enactment of a law) to be injurious to the public. We are a statutory nation — unless there is a statute (law) against a certain act, the act is not a crime. If any law is in violation of any constitutional provision, violating that law is not a crime.

De Facto: In fact; a thing actually done regardless of its legality. A police officer tells you if you don’t stop a certain conduct, he will arrest you. It is a fact you will be arrested, even if there is no law against what you are doing (see DE JURE).

De Jure: Rightfully or lawfully. Any government, whether lawful or not, is a DE FACTO government. A government DE JURE, but not DEFACTO, is one deemed to be lawful that has not been established or has been deposed.

Democracy: A nation that is governed by the concept of majority rules. In a true democracy, the people decide all issues by whatever the majority wishes. This is accomplished by direct election or indirectly through elected representatives. Without any guiding provision, such as a constitution, the rules of conduct change as the majority of the population changes. In other words, the majority, by voting their wishes, can discriminate against a certain minority. America is not a democracy. It is a republic (see REPUBLIC and RULE OF LAW).

Due Process: Just and proper, according to law or accepted practices.

Eminent Domain: The power or right of a government to take private property without the owner’s consent, but upon compensation, for the good of the people. If the state wants to build a highway through your land, you can’t stop them as long as they pay you a fair value for the land.

Extradition: The surrender of a person charged with the commission of a crime by one state or nation to another. If you commit a crime in, say, America, and flee to France, the USA can exercise its EXTRADITION treaty with France and demand the return of your person to stand trial. There are only a few countries that do not have extradition treaties with the USA.

Ex Post Facto: Punishment added to an adjudication after the fact. If one commits an act that is not against the law on one day, the state is barred (under our Constitution) from punishing that person if the state later declares that act to be unlawful.

Grand Jury: A jury impaneled to inquire into the commission of crimes (see PETIT JURY).

Impeach: To accuse, question or discredit.

Impeachment: A legal proceeding to remove a public official from office for reasons of misconduct, neglect of duty or commission of a crime.

Impost: Any tax, especially on imported goods.

Inalienable: (a.k.a. unalienable) Something that cannot be taken away. An intrinsic right, such as the right to life and with it the right to defend life (See the 9th Amendment).

Law: Rules, statutes, constitutions, customs and practices a society has established to regulate and control the actions of its constituents (see RULE OF LAW).

Letters Of Marque: A government-approved commission or authority granted to an individual citizen to seize foreign property of another in retaliation for injuries. Countries used to allow certain private persons to arm their ships for the purpose of attacking and plundering enemy ships.

Mala In Se: Latin term for acts that are wrong — morally wrong — in and of themselves. Americans don't need a law to tell them that murder is wrong. Championing (voting) to pass laws that violate one's constitutional or inalienable rights is mala in se.

Mala Prohibita: Latin term for acts that are wrong only because society says they're wrong. Parking your car in a no-parking zone is wrong only because a law says so.

Malfeasance: The unjust or illegal performance of an act for which a person has no right to do. A politician or other government employee who steals from the public till (see MISFEASANCE, NONFEASANCE).

Martial Law: Military rule over civilians. In America, the military is in strict subordination to the civilian authority (see Article II, Section 2). However, during times of extreme emergency, the president can declare MARTIAL LAW, which puts the military in charge of whatever section/portion of the nation declared to be in need of control. Under MARTIAL LAW, all civil rights and laws are suspended and all activity is at the will of the military command.

Misfeasance: A lawful act done in an unlawful or wrongful way. A police officer, under color of law, arresting a person without cause (see MALFEASANCE; NONFEASANCE).

Nonfeasance: Failure to perform an act one is required to do. An officer of the court who fails to serve a summons or other court document.

Petit Jury: A trial jury, either civil or criminal (see GRAND JURY and APPENDIX II).

Privilege: A right. The term is used to mean the same as a right in the Constitution, such as in the 14th Amendment: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

Quorum: The number of persons necessary to conduct business. A rule of a group requiring X number of members to be present to elect or decide an issue.

Reasonable: In line with reason or common sense. Some constitutional mandates are subject to reasonable applications, i.e., the 4th Amendment's search and seizure clause. Issues that are not subject to reasonableness are absolutes, such as the right to keep and bear arms.

Republic: A nation operating under a RULE OF LAW where its citizens have the sole power to elect representatives to enforce the rule of law and conduct the nation's business according to a set of rules, i.e., a constitution. America is a REPUBLIC; the only way acts can be done that are NOT within the confines of the Constitution is to change the Constitution.

Rights: (a.k.a. privileges or immunities) That which belongs to a person by LAW, nature or tradition (see INALIENABLE).

Rule Of Law: An organization (including a nation) that has agreed to live (operate) by a set of pre-established rules or laws and that these codes take precedent over all else. The U.S. Constitution is our RULE OF LAW inasmuch as it is the set of laws to which all other LAWS, statutes, ordinances, court orders and executive edicts must conform.

Sovereignty: Independence or authority of a state (nation) to operate without outside interference.

Suffrage: The right to vote.

Supreme Court: The court of last resort. Contrary to what some believe, the U.S. Supreme Court does not have to hear a case. It can choose to decide or not decide any case it wishes. The only appeal from this court is by amending the Constitution. Though this court has the right and power to interpret the LAW, it does not have the right to act in violation of the Constitution. There have been a number of instances where the court's rulings violated certain provisions of the Constitution, the most infamous of which was the Dred Scott decision (where the court ruled that African Americans were not citizens).

Writ: Any written order issued by a court directed to a law enforcement official to carry out the order and directing the party mentioned in the WRIT to do what the order calls for.

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here ... please
don't shoot!"**

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