

ARTICLE I

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**.

Article I focuses on the legislative branch of government, the branch that "makes our laws." Note that, unlike Parliament in England, our **Congress does not have unlimited power** to make laws. They are confined by the "powers" "granted to them by the Constitution."

SECTION 2

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

There is a body of case law defining the Constitutional geographic boundaries of how the Members of the House are chosen which involves redistricting, etc. At the beginning, Members of the House represented the only portion of the Federal government that were directly elected by the people and the States were free to determine who was qualified to vote for Members of the House. Most states limited the vote to "free white male property owners."

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, **when elected**, be an Inhabitant of that State in which he shall be chosen.¹

[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.]²

¹This is known as the "Qualifications Clause" for Members of the House of Representatives.

²Changed by section 2 of the Fourteenth Amendment.

This scheme was dubbed the “Great Compromise,” but it was “great” solely for the reason that it “got the job done,” so to speak. In other words, it was the solution to getting the Constitution off the ground, in spite of its contradictions. Although direct taxes based on land values are not used today to any degree by the Federal government, they were in the 18th century. Although the large states got more representation, they also were taxed more. The three fifths formula was changed by the Fourteenth Amendment after slavery was abolished. Native Americans residing on tribal land were not taxed and not included in a state’s population. The Indians were treated as independent nations. See Article I, §8.

The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of **ten Years**, in such Manner as they shall by Law direct. The number of Representatives shall **not exceed one for every thirty Thousand**, but each State shall have **at Least one** Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

We conduct a census every ten years primarily to reapportion and redistrict in order to determine the makeup of the House of Representatives. Note that each State must have at least one Representative and the number of Representatives for any State shall not exceed 1/30,000. The first census in 1790 determined a Constitutionally defined population of 4,000,000. Today, of course, our total population exceeds 300,000,000. In 1929 Congress voted to limit the number of Representatives to 435. Based on the census for 2000, every 646,000 citizens have one Representative. Does anyone know the historical significance of Massachusetts Governor Elbridge Gerry’s actions in 1812?

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

Governors can call for an election when there is a vacancy in the House, but do not have to do so.

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

FOURTEENTH AMENDMENT

SECTION 2

[ratified July 9, 1868]

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

The 14th Amendment changes the ugly representation formula abolishing the method of counting each slave as 3/5 of a person. For the first time in the Constitution, we see the word "male," which ties voting to being male. Note that, although this amendment does not guarantee African American men a right to vote, it does seek to punish any State that denies it to them. It also permits States to deny voting rights to veterans of the Confederacy.

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SECTION 3

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

Note that, originally, each state's legislature chose its senators. The 17th Amendment, below, mandates that the people of each state shall vote for their senators.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes.

³Changed by the Seventeenth Amendment.

The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; [and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.⁴]

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**, by an **Inhabitant of that State** for which he shall be chosen.⁵

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

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

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

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

SEVENTEENTH AMENDMENT

[ratified April 8, 1913]

The Senate of the United States shall be composed of two Senators from each State, **elected by the people thereof**, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

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

⁴Changed by the Seventeenth Amendment.

⁵This is known as the “Qualifications Clause” for Members of the Senate.

State may empower the executive thereof the make temporary appointments until the people fill the vacancies by election as the legislature may direct.

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

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 chusing Senators.⁶

The Congress shall assemble at least once in every Year, and such Meeting shall be [on the first Monday in December,⁷] unless they shall by Law appoint a different Day.

TWENTIETH AMENDMENT
SECTION 2
[ratified January 23, 1933]

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

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 small Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

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

⁶This is known as the “Times, Places & Manner Clause” or the “Elections Clause.”

⁷Changed by section 2 of the Twentieth Amendment.

There is no provision to impeach a Congressman, but there is a way to expel them with a 2/3 vote. The Constitution does not define conduct that would subject a Congressman to expulsion. As an aside, during one Civil War debate, 30 members drew their guns in the House chamber.

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

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

SECTION 6

The Senators and Representatives shall receive a **Compensation** for their Services, to be ascertained by Law, and **paid out of the Treasury of the United States**. They shall in all Cases, **except Treason, Felony and Breach of the Peace**, be **privileged from Arrest** during their **Attendance at the Session** of their respective Houses, and in going to and returning from the same; and for any **Speech or Debate** in either House, **they shall not be questioned in any other Place**.⁸

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

SECTION 7

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

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States: If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the

⁸This is known as the “Speech Clause” or the “Debate Clause.”

President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.⁹

The Constitution does not dictate the general rules for passing laws. For example, it does not dictate “majority vote.” Each House determines its own rules. But, any Bill sent to the President must be identical between Houses. Section 7 gives the President the power of veto — (one of our “checks and balances”). Congress can override by 2/3 vote — (another of our “checks and balances”).

Pocket veto — if the President does not sign a Bill within 10 days and Congress adjourns within that 10 days, the Bill is dead.

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.

Proposed Constitutional Amendments do not need Presidential approval before being sent to the States for ratification.

SECTION 8

The Congress shall have Power...

Behold the “enumerated Powers” of Congress.

To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States¹⁰; but all Duties, Imposts and Excises shall be uniform throughout the United States;

Under the Articles of Confederation, Congress did not have the power to tax. Congress can use its spending Power to condition receipt of federal funds upon complying with its dictates. Under this provision, could Congress impose an income tax?

⁹This is known as the “Presentment Clause.”

¹⁰This is known as the Spending Clause.

To borrow Money on the credit of the United States;

The Constitution does not limit Congressional borrowing.
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To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

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

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

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

To establish Post Offices and post Roads;

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

To constitute Tribunals inferior to the supreme Court;

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

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

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

To provide and maintain a Navy;

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

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

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

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

To make all Laws which shall be **necessary and proper** for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.¹¹

SECTION 9

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

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

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

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

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

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

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

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

¹¹Also known as the Necessary and Proper Clause or the Elastic Clause.

SECTION 10

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

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

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

SIXTEENTH AMENDMENT

[ratified February 3, 1913]

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

TWENTY-FIRST AMENDMENT

[ratified December 5, 1933]

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