

# Article IV

## Section 1



“The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States.”

— Chief Justice Salmon P. Chase,  
*Texas v. White* (1869)



### WHAT IT SAYS

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

## WHAT IT MEANS

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Each state must respect and honor the state laws and court orders of the other states, even when its own laws are different. For example, if citizens of New Jersey marry, divorce, or adopt children in that state, Florida must recognize those actions as valid, even if the marriage, divorce, or adoption would not have been possible under Florida law. Similarly, if a court in one state orders a person to pay money or stop certain behavior, the courts in other states must recognize and enforce the other state's decision. Congress also has the power to determine how the states honor each other's acts, records, and court decisions. For example, Congress may pass a federal law that specifies how states must handle child custody disputes when state laws are different or the process by which a person winning a lawsuit in one state can enforce the order in another state.

## FULL FAITH AND CREDIT

Among the ways in which the Constitution united the separate states into a nation was through the “full faith and credit” clause, which requires the courts in one state to recognize the laws, records, and judicial decisions of the other states. The many lawyers at the Constitutional Convention of 1787 were fully aware of the expression “full faith and credit” from Anglo-American common law, and therefore spent little time debating it. For centuries this expression had referred to the respect owed to court decisions and other public records. The Articles of Confederation had contained a similar reference, but the Constitution went a step further and granted Congress the power to enact legislation to implement and enforce the “full faith and credit” provision.

As early as 1790, Congress enacted legislation for authenticating the acts of the various state legislatures and state courts, so that one state's laws and judicial decisions would be recognized in every other state's courts. In 1804, after the purchase of the vast Louisiana Territory, Congress broadened this legislation to include judicial proceedings in the territories as well. While each state's laws are binding only within that state, the full faith and credit provision of the Constitution gives the decisions of each state's courts equal standing across the nation. The “full faith and credit” clause does not require U.S. courts to recognize the decisions of foreign courts, although they can do so independently. In fact, American courts generally recognize and respect the decisions of courts in other lands.

# Article IV

## Section 2



### Clauses 1-3

#### WHAT IT SAYS

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[1] The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

[2] 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.

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

\* Abolished by the Thirteenth Amendment.

### THE FUGITIVE SLAVE ACTS

For many northerners in the early nineteenth century, the most distasteful portion of the Constitution was the requirement that their states return African Americans who had fled from slavery in the South. William Lloyd Garrison, who published an abolitionist newspaper, *The Liberator*, in Boston, regarded the Constitution as a pact with evil because of its protection of human slavery. Garrison once publicly burned a copy of the Constitution and declared: "So perish all compromises with tyranny!" Elected officials, however, took an oath to uphold the Constitution, even those portions with which they might disagree. To enforce the Constitution in 1793, Congress passed the Fugitive Slave Act, which allowed slave owners' agents who seized runaways to go before a federal judge to return them to their owners. Abolitionists challenged this law in court, and some northern states passed laws to counteract it, but in *Prigg v. Pennsylvania* (1842) the Supreme Court acknowledged that the fugitive slave provision was one of the compromises that had been necessary to ensure the ratification of the Constitution. As tensions mounted between pro- and antislavery factions over the question of whether to permit or bar slavery in the new western territories, Congress forged the Compromise of 1850. Part of this compromise was a new Fugitive Slave Act that allowed fugitives to be returned to slavery without a court order, and set fines for anyone who tried to obstruct this law. Instead of calming tempers, the provisions of this compromise outraged public opinion in the North and contributed to the coming of the Civil War. After the Southern states seceded, Congress repealed the Fugitive Slave Act. In 1863 President Abraham Lincoln signed the Emancipation Proclamation, declaring slaves in the states under rebellion to be free, and in 1865 the Thirteenth Amendment abolished slavery entirely.



# Article IV

## Section 3



### Clauses 1-2

#### WHAT IT SAYS

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

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

#### CREATING WEST VIRGINIA

The Constitution prohibits one state from being carved out of another, without the original state's consent. The creation of West Virginia in 1863 seemed to fly in the face of this prohibition. The people of the western districts of Virginia were strongly opposed to secession in 1861. They held few slaves and had no desire to become a battlefield in the Civil War. When the Virginia legislature debated secession, those from the Appalachian Mountains region in the west voted to stay with the Union. After Virginia joined the Confederacy, Richmond became the capital of the rebel nation. Pro-Union Virginians then met in Wheeling to declare themselves the legitimate government of the state. Because, as President Abraham Lincoln had argued, states had no right to secede, they asserted that Virginia had never left the Union. With Virginia effectively divided during the war, the pro-Unionist government petitioned Congress to become a separate state. Congress acted and West Virginia joined the Union on June 20, 1863.

## WHAT IT MEANS

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Congress can admit new states into the Union, but a single state cannot create a new state within its boundaries. For instance, the state of New York cannot make New York City a separate state. Nor can two states, nor parts of states such as eastern Oregon and western Idaho, merge to form a new state without the consent of the various state legislatures and Congress. The Constitution does not specify that new states enter into the Union on an equal footing with the other states, but Congress has always granted new states equality with the existing states.

Not all the lands of the United States are states. Some lands are territories, and Congress has the power to sell off or regulate the territories. This includes allowing U.S. territories to become independent nations, which is what happened in the case of the former U.S. territory the Philippines, or regulating the affairs of such current U.S. territories as Guam and Puerto Rico. This provision also gives Congress the power to set rules for lands owned by the United States, such as national park land and national forests. The last sentence of this clause makes sure that nothing in the Constitution will harm the rights of either the federal government or the states in disputes over territory or property.

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*“I think that the Constitution of the thirteen states was made, not merely for the generation which then existed, but for posterity; undefined, unlimited, permanent, and perpetual—for their posterity, and for every subsequent State which might come into the Union, binding themselves by that indissoluble bond.”*

— Henry Clay, Senate speech,  
February 6, 1850

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## Article IV Section 4



### WHAT IT SAYS

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

### DORR'S REBELLION: A SEVERE TEST OF THE GUARANTEE CLAUSE

The Constitution requires that the states and the federal government operate under a system of representative government, in which public officials are democratically elected to do the public's will. The authors of *The Federalist* explained that while the framers of the Constitution created an executive branch headed by a President, they wanted no part of a monarchy. The powers of the federal government were divided among the three branches to prevent the rise of autocracy or tyranny. A severe test of this provision occurred in Rhode Island in 1841. There leaders of a popular movement protested that the state disenfranchised half of the men in the state (no women were eligible to vote) because the royal charter, which still served as the state's constitution, allowed only freeholders (landowners) to vote. The established political leadership was therefore known as the Freeholders' Government. Those people who did not own land and were thus unable to vote held their own state convention, wrote a new "People's Constitution," and elected Thomas Wilson Dorr (above) as the state's governor. The Freeholders' Government held its own convention and wrote a new constitution that extended the right to vote—but this was defeated in an election limited to landowners. The Freeholders insisted that they were the legitimate government, elected by the qualified voters of the state. For a while, two state governments existed. Both sides called on President John Tyler for help. The President made it clear that he sided with the existing state constitution and would not support Dorr's alternative government. The President also promised federal troops to help the state militia put down Dorr's Rebellion. When Dorr's group tried to seize the state arsenal, the militia defeated them. Dorr was convicted and given a life sentence, but was soon released from prison on an amnesty. By then Rhode Island had adopted a new state constitution that broadened the right to vote. The Supreme Court addressed the issue in *Luther v. Bordon* (1849), in which it declared that guaranteeing a republican form of government to the states, as authorized by Article IV, section 4, was a matter for the executive and legislative branches rather than for the judiciary because this was a "political question."

## WHAT IT MEANS

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This provision, known as the guarantee clause, ensures that each state is run as a representative democracy, as opposed to allowing a monarchy or dictatorship to control the government. Courts have been reluctant to specify what a republican government means, leaving that decision to Congress. Congress has the power, and the obligation, to protect the states from invasion by a foreign country or from significant violent uprisings within each state. The Constitution authorizes the legislature of each state (or the governor, if the legislature cannot be assembled in time) to request federal help in the event of riots or other violence.



*“The government of the Union depends almost entirely upon legal fictions; the Union is an ideal nation, which exists, so to speak, only in the mind and whose limits and extent can only be discerned by the understanding.”*

— Alexis de Tocqueville,  
*Democracy in America* (1835)

