Article I Section 1

"I believe all of us—regardless of party—can respect one another, even as we fiercely disagree on particular issues."

—Representative J. Dennis Hastert, on becoming Speaker of the House in 1999

WHAT IT SAYS

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.

WHAT IT MEANS

The framers of the Constitution separated the powers of government into three branches, granting legislative power (the power to pass laws) to Congress, executive power (the power to administer the laws) to the President, and judicial power (the power to interpret laws and decide legal disputes) to the courts. The unique and limited powers of the Congress are specified in Article I.

This separation of powers ensures that no one person or group could create, administer, and interpret the laws at the same time, and that each branch would serve as a check on the power of the other two branches. In some instances, the spheres of the three branches overlap, such as when Senate approval is required to confirm the President's nominees to the Supreme Court, or when the President can veto acts of Congress or pardon convicted criminals.

Section 1 also specifies that the Congress of the United States shall be bicameral, that is, it will be divided into two houses, the Senate and the House of Representatives. The previous government under the Articles of Confederation had only a single lawmaking body, as did some of the states. The creation of two legislative bodies reflected a compromise between the power of the states and the power of the people. The number of seats in the House of Representatives is based on population.

The larger and more urban states have more representatives than the more rural, sparsely populated states. Regardless of their size, the states are equal in the Senate, with two senators from each state. In order to create a law, both the House of Representatives and the Senate must pass the proposed legislation in exactly the same form, and it then must be approved, or at least not vetoed, by the President.

HOW A BICAMERAL LEGISLATURE WORKS

For any bill to become ready to send to the President for approval, both the Senate and the House of Representatives must pass it in exactly the same form. Members of the House or Senate will introduce the bill, which will then be referred to the committee that holds jurisdiction over its subject matter. A bill proposing to improve the quality of drinking water, for instance, would be referred to the Environmental Committee. A subcommittee investigates the matter, holds hearings, takes testimony, collects evidence, and perhaps amends the proposal before voting on it and submitting it to the full committee. The committee might further amend the bill before reporting it to the full House. The House Rules Committee would determine whether it could be amended any further on the House floor. Once the House passes the bill it will be submitted to the Senate (or, if it began in the Senate, it will be submitted to the House). Then, the process begins all over again, with introduction by a senator or representative, submission to the appropriate committee, and perhaps another round of hearings. Those groups who oppose provisions of the original bill will seek to have it improved through additional amendments. The Senate Rules Committee, however, plays no role in the process and the bill will be more open to amendment than in the House. By the time the bill is passed, it may differ significantly from the original version. In order to resolve the differences between the versions of the bill passed by the House and the Senate, the legislative leaders will appoint a conference committee of senators and representatives. The conferees will negotiate and vote on a single version of the bill. They then send the conference report, as this final version is called, back to the House and Senate for an "up or down vote" in which members may vote to approve or disapprove but not to make any more changes. Once both houses approve the final version, it goes to the White House, where the President may approve or veto the bill. It takes a two-thirds vote of both houses to override a Presidential veto. This complex system makes it difficult to pass legislation hastily. Except in time of national emergency, the process usually permits much input from those most affected by the proposed legislation and stimulates debate that helps build public awareness and support for its objectives.

Article I
Section 2

Clauses 1-2

WHAT IT SAYS

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

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

WHAT IT MEANS

The House of Representatives is composed of members chosen every two years by the voters of each state. There are only three qualifications: representatives must be at least twenty-five years old,must have been citizens of the United States for at least seven years, and must live in the state from which they are chosen. The states may not add any further controls on members of Congress, such as term limits or recall—special elections in which voters can remove public officials midterm—because these provisions are not specified by the Constitution. The Constitution allows the states to determine who is eligible to vote (the Constitution calls voters "electors"). Whatever requirements are necessary to cast a vote for members of the larger house of the state legislatures will be sufficient to vote for the U.S. House of Representatives.

In recent years, the Supreme Court has used the notion "by the people of the several states" in Article I along with the Fourteenth Amendment's "equal protection" clause to require that each congressional district contain roughly the same number of people. This ensures that each person has an equal vote in a congressional election.

APPOINTMENTS TO THE PEOPLE'S HOUSE

On September 11, 2001, after hijacked passenger planes crashed into the World Trade Center in New York City and the Pentagon in Washington, D.C., the U.S. Capitol and the Senate and House office buildings were evacuated for fear that the Capitol might be the next target. Both the Senate and House returned to session the next day, but the incident raised questions about the continuity of operations of the legislative branch. If a large number of senators died at the same time, the Constitution and most state laws provided for the governors of their states to appoint replacements immediately. There is no constitutional provision for the appointment of House members. Instead their states usually hold special elections to fill the empty seats. Some observers asked whether the Congress could function properly in the months that it would take for such elections to be held. Two Washington-based think tanks, the Brookings Institution and the American Enterprise Institute, created a Continuity of Government Commission that studied the problem and called for a constitutional amendment to allow for the temporary replacement of House members in the case of catastrophic attack. However, the amendment confronted a proud tradition that no representative had ever entered the "people's house" except by popular election. It also raised the question of whether governors could appoint anyone they pleased or if they were obligated to appoint someone from the same political party as the representative being replaced, as large scale replacements could change the political control of the House. Such complications stalled the progress of the amendment, despite the enormity of the problem it sought to address.

Article 1 Section 2

Clauses 3-5

"The hardest part of leadership is compromise. People often think when you compromise, you are compromising your morals or your principles. That's not what political compromise is. Political compromise is deferring your ideas so a majority can be reached. That's what Congress does."

—House Speaker Tip O'Neill, *All Politics Is Local, and Other Rules of the Game* (1994) on becoming Speaker of the House in 1999

WHAT IT SAYS

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

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

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

*Changed by the Fourteenth Amendment, Section 2.
**The colonial name Rhode-Island and Providence Plantations remains the official name of the state commonly called Rhode Island.

WHAT IT MEANS

The Constitution set the number of members of the first House of Representatives from each of the original thirteen states and declared that the amount of direct taxes would depend on the number of citizens in each state. At that time, when slavery was still legal, it specified that slaves did not count as full citizens. The "three-fifths compromise" at the Constitutional Convention counted slaves as three-fifths of a citizen for purposes of state representation and taxation. This provision was changed following the Civil War with the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments that abolished slavery, guaranteed equal protection, and extended voting rights to African Americans.Since then, all citizens, regardless of race, are fully counted in each census.

Clause 3 also establishes that the census (an enumeration or headcount) will be conducted every ten years. Every adult in the country must answer a survey, which Congress then uses to determine how many representatives are to come from each state and how to distribute federal funds among the states. Every state must have at least one representative, but Congress sets the maximum number of members.

The Constitution specified the original number of representatives each state should have, but did not draw the district lines, a function it left to the states. As a result, the political party in power in each state legislature is able to define districts in such a way that benefits its own candidates. Extreme cases, which result in oddly shaped districts, are called gerrymandering, after a plan devised when Elbridge Gerry was governor of Massachusetts in 1812. An editorial cartoonist, looking at such a district, compared it to the mythical lizard-like creature the salamander, added the governor's name, and coined the term gerrymander.

If a member of the House dies or resigns in midterm, the governor of the representative's state can call for a special election, with a "writ of election," to fill the vacancy. Unlike the Senate, where a governor can appoint someone to serve until the next election, no one has ever been appointed to the House of Representatives.

The Constitution authorizes the House to elect its own Speaker. The Speaker of the House presides over its meetings or authorizes another member to preside in his place. By act of Congress, the Speaker is next in line to become President, if both the President and Vice President are unable to serve. The House may also choose other officers, such as its chaplain, clerk of the House, and sergeant at arms. The House also holds the power of impeachment. Akin to an indictment, impeachment of a federal officer—whether a judge, a cabinet secretary, or the President—requires only a simple majority in the House. A two-thirds vote of the Senate is then required to convict and remove from office the impeached official. Members of the House act as prosecutors during the trial in the Senate chamber. If a President is impeached, the chief justice of the United States presides over the Senate trial, rather than the Vice President, who stands to benefit from the President's removal.

A POWERFUL SPEAKER OF THE HOUSE: HENRY CLAY

The first Speakers of the House limited their role to that of neutral presiding officer. It was not until the thirty-four-year-old Henry Clay of Kentucky took the office in 1811 that the Speaker became the political leader of the House. Elected Speaker on his first day in the House, the magnetic Clay was one of the congressional "war hawks" who drew the United States into the War of 1812. At the war's end, President James Madison sent Clay to Ghent in Belgium to negotiate a peace treaty with Great Britain. Clay also promoted an ambitious program of protective tariffs along with roads, harbors, and canals and other internal improvements, which he called the American System. Trying to end the heated debate over the spread of slavery into the western territories, Speaker Clay also promoted the Missouri Compromise of 1820. His efforts won him renown as the Great Compromiser. Clay dominated the House through his interpretation of its rules, his decrees as presiding officer, and his skills as an orator. Most notably, he expanded the number of standing committees, which improved the efficiency of the House and enabled it to handle a dramatic increase in the number of bills and resolution during his long tenure.

Clay went on to serve as Secretary of State and U.S. Senator from Kentucky. To he end he continued to forge legislative compromises. Arguing in favor of the Compromise of 1850, he implored Senators "to repress the ardor of their passions" and determine what was best for the country with regard to allowing or prohibiting-slavery in the new western territories.

Article I Section 3

Clauses 1-3

WHAT IT SAYS

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

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

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

* Changed by the Seventeenth Amendment.

** Changed by the Seventeenth Amendment.

JOHN EATON, AN UNDERAGE SENATOR

In seeking to establish an older, more experienced, and more deliberative legislative body, the framers of the Constitution required that senators be at least thirty years of age—five years older than the minimum age for representatives. John Eaton, however, was only twenty-eight when he took his seat as senator from Tennessee in 1818. At the time, no one questioned his qualifications. He had practiced law in Tennessee and served in the state legislature before he was appointed to fill a vacancy in the Senate. This violation of the Constitution did not hinder his political career. He was elected to a full term in 1821 and later served as secretary of war in Andrew Jackson's cabinet. Although Eaton was the youngest, two other U.S. senators in the nineteenth century were also underage. In 1806, Henry Clay became a senator from Kentucky at age twenty-nine, and in 1816 Armistead Mason became a senator from Virginia at age twenty-eight, because no one questioned them publicly. By the twentieth century, the Senate was paying more careful attention to the age of its incoming members. In 1934 West Virginia elected Rush Holt to the Senate, although he was only twenty-nine. Holt had to wait six months after his election, until he turned thirty, before he could take the oath of office as a senator.

WHAT IT MEANS

The Senate, which now has one hundred members, has two senators from each state. Originally elected by state legislatures, senators have been directly elected by the people since ratification of the Seventeenth Amendment in 1913. Senators must be more than thirty years old, must have been an American citizen for at least nine years, and must live in the state they represent. Senators can serve for an unlimited number of sixyear terms.

The Senate is divided into three "classes," and elections are held on a staggered basis so that one class, or one-third of the senators, stands for election every two years.When a state entered the Union, its first senators flipped a coin to determine which class they would enter, with the result that one received a longer term than the other. If senators leave office before the end of their terms, the state legislature may authorize the governor of their state to appoint someone to fill the vacant seat until the next election.

"The only other qualificatiion is, that the senator shall, when elected, be an inhabitant of the state, for which he is chosen. This scarcely requires any comment; for it is manifestly proper, that a state should be represented by one, who, besides an intimate knowledge of all its wants and wishes, and local pursuits, should have a personal and immediate interest in all measures touching its sovereignty, its rights, or its influence."

— Supreme Court Justice Joseph Story, *Commentaries on the Constitution of the United States* (1833)

Article I Section 3

Clauses 4-7

WHAT IT SAYS

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

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

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

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

IMPEACHMENT TRIALS HELD IN THE SENATE

1. William Blount, senator from Tennessee, for disloyalty to the United States; in 1799 the Senate expelled Blount and dismissed the impeachment charges against him.

2. John Pickering, federal judge; in 1804 the Senate found him guilty of charges of drunkenness and unlawful rulings and removed him from office.

3. Samuel Chase, Supreme Court justice; in 1805 the Senate found him not guilty of his alleged mishandling of a trial.

4. James H. Peck, federal judge; in 1831 the Senate found him not guilty of his alleged misuse of the contempt power against a lawyer.

5. West H. Humphreys, federal judge; in 1862 the Senate found him guilty of supporting the Confederate rebellion.

6. Andrew Johnson, President; in 1868 the Senate found him not guilty of violating federal laws.

7. Mark H. Delahay, federal judge; resigned in 1873 over charges of drunkenness; the Senate took no action against him.

8. William Belknap, secretary of war; in 1876 the Senate found him not guilty of bribery and corruption.

9. Charles Swayne, federal judge; in 1905 the Senate found him not guilty of improperly convicting lawyers for contempt.

10. Robert Archbald, federal judge; in 1913 the Senate found him guilty of soliciting bribes and removed him from office.

11. George W. English, federal judge; in 1926 he resigned and the Senate dismissed the charges of abusive treatment of lawyers and litigants against him.

12. Harold Louderback, federal judge; in 1933 the Senate found him not guilty of partiality and favoritism.

13. Halsted Ritter, federal judge; in 1936, the Senate found him guilty of tax evasion and removed him from office.

14. Harry E. Claiborne, federal judge; in 1986 the Senate found him guilty of falsifying his tax returns and removed him from office.

15. Alcee Hastings, federal judge; in 1989 the Senate found him guilty of bribery and perjury and removed him from office. (In 1992, Hastings was elected to the U.S. House of Representatives from Florida.)

16.Walter Nixon, federal judge; in 1989 the Senate found him guilty of perjury and removed him from office.

17.William J. Clinton, President; in 1999 the Senate found him not guilty of charges of perjury.

WHAT IT MEANS

The Vice President of the United States is also the president of the Senate. The Vice President may preside over the Senate but can vote only to break a tie. To preside in the absence of the Vice President, the Senate elects a president pro tempore (literally, for the time being). Like the Speaker of the House, the president pro tempore is in the line of Presidential succession. By modern custom the president pro tempore is the senior member of the Senate's majority party. The Senate may also create and fill its other offices, such as the chaplain, secretary of the Senate, and sergeant at arms. If the House of Representatives votes to impeach a federal official, the Senate holds a trial to convict or acquit that officer. The Vice President presides, except when a President has been impeached. The chief justice of the United States presides over Presidential trials. A vote of two-thirds of the senators present (sixty-seven if all one hundred are present) is necessary to remove someone from office. This means that while a simple majority in the House may impeach an official, a larger consensus in the Senate is needed for conviction. In the cases of impeached Presidents Andrew Johnson and Bill Clinton, fewer than two-thirds of the senators voted to convict them, and they were acquitted. Those convicted by the Senate are removed from office, but Congress can inflict no further punishment on them, other than barring them from holding future office. Officials who have been removed may still be prosecuted criminally or sued, just like any other citizen.

"Has the president committed offenses and planned and directed and acquiesced in a course of conduct which the Constitution will not tolerate? That is the question."

—Representative Barbara Jordan, during the House Judiciary Committee's deliberation over the impeachment of President Richard Nixon, 1974

Article I
Section 4

Clauses 1-2

WHAT IT SAYS

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

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

*Changed by the Twentieth Amendment

SETTING A NATIONAL ELECTION DAY

After the ratification of the Constitution, the states held elections for the President and members of Congress. The Constitution left it to the states to set a date for these elections, which ranged between November 24, 1788, and June 22, 1789. The states continued to vote on different days until 1848, when Congress fixed a standard day for congressional elections. Some members of Congress had worried that this would be an encroachment on states' rights, but the majority felt that a uniform date would reduce the chance of corruption, keeping some voters from crossing state lines to cast ballots in different states. Congress set the first Tuesday after the first Monday in November as the Election Day for federal elections. The exception was the state of Maine, which because of its severe weather conditions continued to hold its elections in September. The vote in Maine was seen to foretell the national election results, as expressed in the oftrepeated slogan, "As Maine goes, so goes the nation." Finally, in 1958, Maine shifted its elections to November to vote with the rest of the nation.

WHAT IT MEANS

The Constitution gives the state legislatures the task of determining how congressional elections are held. For example, the state legislatures determine when elections are scheduled, how voters can register, and where they can cast their ballots. But, Congress has the right to change these state rules to set a uniform date for federal elections and to provide national protection for the right to vote. The first federal election law prohibited false registrations, bribery of election officials, and reporting false election returns. Congress passed this law after the Civil War as a means of enforcing the prohibitions against racial discrimination in voting contained in the Fifteenth Amendment. With the passage of the Civil Rights Acts of 1957 and 1964 and the Voting Rights Act of 1965, Congress enacted greater protections for the right to vote in federal, state, and local elections.

As a general rule, Congress sets its own schedule for how frequently it meets. The Constitution provides only that it must meet once a year. Originally, Congress convened on the first Monday in December, a year and a month after the congressional elections. In 1933 the Twentieth Amendment moved this date forward to January 3, unless the members specify a different schedule.

"No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live"

—Justice Hugo L. Black,
Westberry v. Saunders (1964)

Article I Section 5

Clauses 1-4

WHAT IT SAYS

[1] Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

[2] Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

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

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

THE CONGRESSIONAL RECORD

Any day that the House and Senate are in session, official reporters of debate take down every word spoken, collect copies of all bills introduced, and record every vote taken. The next day this information is published in the *Congressional Record*. As the Constitution requires, each house publishes a journal of its proceedings, but these are minute books without the verbatim text of speeches. Since 1789, clerks of the House and Senate have prepared these journals.

In contrast, the *Congressional Record* evolved from the notes of stenographers hired by private newspapers, first in New York City, then in Philadelphia, and finally in Washington, D.C. During the early nineteenth century, such Washington-based papers as the National Intelligencer and the Globe published the congressional debates. These reporters' notes occasionally contained mistakes, which suspicious members of Congress suspected were politically motivated to embarrass them. In the 1840s, the reporters of debate were hired as congressional employees. At the same time, advances in stenography ensured more accurate transcripts. Not until 1873 did the Government Printing Office take over this responsibility and began to publish the Congressional Record. Today, in addition to past and current copies of the these volumes held by libraries, the *Congressional Record* can be accessed online at http://www.gpoaccess.gov/crecord/.

WHAT IT MEANS

Both the House of Representatives and the Senate are in charge of determining whether an election of one of its own members is legitimate. The losing candidate in an election may bring charges before the appropriate House or Senate committee, which will sift through the evidence and render a judgment. Similarly, the House and Senate can establish their own rules, punish members for disorderly behavior, and, if two-thirds of its members agree, expel a member.

Both the House and Senate need a quorum to do business—meaning that a majority of members must be present. A full majority need not always be present in the chamber but must be close enough to respond to quorum calls. Business in the chamber stops if a member calls attention to the absence of a quorum. Bells then ring through the Capitol and office buildings summoning enough members to establish a quorum. Each house may authorize its sergeant at arms to arrest absent members and compel their attendance to establish a quorum to do business.

Both bodies must keep and publish a journal of their proceedings, including how members voted. Congress can decide that some discussions and votes are to be kept secret, but if one-fifth of the members demand that a vote be recorded, it must be. To keep the two chambers operating on similar schedules, the Constitution requires that neither the House nor the Senate can close down or move proceedings from their usual location for a period longer than three days without the consent of the other chamber. To avoid having to ask each other's permission, either the House or the Senate will often hold pro forma (for form) sessions, where only a few members are present and no business is conducted, at times when the other body is meeting. So, for instance, if the House is meeting to handle some unfinished business, but the Senate has nothing on its agenda, and most senators are out of town that week, one senator will agree to stay behind and call the Senate to order each day, and then immediately adjourn. The presiding senator sometimes tries to see how fast he or she can strike the gavel calling the Senate to order and then immediately adjourning it, as a sort of game. This meets the constitutional requirement that both houses be in session at the same time.

"I have begun a sketch, which those who come after me will successively fill up, till a code of rules shall be formed for the use of the Senate, the effects of which may be accuracy in business, economy of time, order, uniformity, and impartiality.""

— Thomas Jefferson, preface to Manual of Parliamentary Practice (1801), which he compiled while presiding over the Senate as Vice President

Article I Section 6

Clauses 1-2

WHAT IT SAYS

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

[2] No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased 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.

SUING A SENATOR FOR LIBEL

Senator William Proxmire, a Wisconsin Democrat, regularly bestowed "golden fleece" awards on people and organizations he felt were wasting federal funds. In 1975 one of these awards went to the National Science Foundation for funding Ronald R. Hutchinson, a scientist who studied physical signs of aggression in monkeys.When the senator claimed that "the good doctor has made a fortune from his monkeys and in the process made a monkey out of the American taxpayer," the scientist sued for libel. The lower federal courts ruled that Proxmire held immunity under the Constitution's "speech and debate" clause, but in Hutchinson v. Proxmire (1979) the Supreme Court ruled that while his speeches in the Senate were protected, his press releases and newsletters were not. Chief Justice Warren Burger wrote the majority opinion, asserting that the constitutional protection was limited to actions essential to the legislative process. Only Justice William Brennan dissented, arguing that "in my view, public expenditure, whatever its form, is a legislative act shielded by the Speech and Debate Clause."

WHAT IT MEANS

Members of Congress are entitled to be paid for their service from the U.S.Treasury. Because members must vote to raise their own salaries, the Twenty-seventh Amendment, ratified in 1992, provides that salary increases can take effect only after the next election, giving voters a chance to register their approval or disapproval at the polls.

The Constitution protects legislators from arrests in civil lawsuits while they are in session, but they may be arrested in criminal matters. Members of Congress are granted immunity from criminal prosecution and civil lawsuits for the things they say and the work they do as legislators. This protection prevents prosecutors and others from using the courts to intimidate legislators because they do not like their views.

To ensure the separation of powers between the legislative, executive, and judicial branches of government, senators and representatives are prohibited from holding any other federal office during their service in Congress.

"The doctrine of separation of powers was adopted by the Convention of 1787, not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of the government powers among three departments, to save the people from autocracy."

——Justice Louis D. Brandeis, dissenting opinion, *Myers v. United States* (1926)

Article I Section 7

Clauses 1-3

"The fact that a given law or procedure is efficient, convenient, and useful in facilitating functions of government, standing alone, will not save it if it is contrary to the Constitution."

— Chief Justice Warren E. Burger, INS v. Chadha (1983)

WHAT IT SAYS

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

[2] 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 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.

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

THE LINE-ITEM VETO

Presidents have been reluctant to veto a tax or spending bill because they objected to just a part of it. This has forced Presidents to agree to spending items they opposed in order to get other items they supported. In 1995, advocates of balancing the federal budget proposed a line-item veto, by which the President can approve a bill but veto some of its specific provisions, and in 1996 Congress granted the President this power. In the eighteen months after the line-item veto was approved, President Bill Clinton used it eighty-two times. The city of New York objected to one of his lineitem vetoes, which affected some tax breaks tied to the city's Medicare program. New York filed suit in federal court, and eventually the Supreme Court, in City of New York v. William J. Clinton (1998). The Court struck down the line-item veto as unconstitutional because it violated the Constitution's requirement that bills be presented in their entirety for the President's signature or veto.

WHAT IT MEANS

When it comes to raising and spending money, the House of Representatives must begin the process. The Senate can offer changes and must ultimately approve the bills before they can go to the President. If the President signs the bill, it becomes a law. If the President does nothing for ten days, not including Sundays, the bill also automatically becomes law, except during the last few days of a congressional session. In that period of time, the President can use a "pocket veto." By doing nothing, the President automatically vetoes the bill. If the President sends a vetoed bill back to Congress with objections, it takes a two-thirds vote in both the House and Senate to override the veto in order for the bill to become law. Congress can also change the bill to make it more acceptable to the President. For political reasons, Presidents may be cautious about vetoing legislation, but just the threat of a veto may press members of Congress to work out a compromise. Similarly, if Congress has the necessary votes to override a veto, it is likely that the President will make every effort to compromise on the issue.

PRESIDENTIAL VETOES

PRESIDENT	R	P	O
R= regular; P=pocket; O=orverridden			
Washington	2	0	0
J. Adams	0	0	0
Jefferson	0	0	0
Madison	5	2	0
Monroe	1	0	0
J. Q. Adams	0	0	0
Jackson	5	7	0
Van Buren	0	1	0
W. Harrison	0	0	0
Tyler	6	4	1
Polk	2	1	0
Taylor	0	0	0
Fillmore	0	0	0
Pierce	9	0	5
Buchanan	4	3	0
Lincoln	2	5	0
A. Johnson	21	8	15
Grant	45	49	4
Hayes	12	1	1
Garfield	0	0	0
Arthur	4	8	1
Cleveland	346	238	7
B. Harrison	19	25	1
McKinley	6	36	0
T. Roosevelt	42	40	1
Taft	30	9	1
Wilson	33	11	6
Harding	5	1	0
Coolidge	20	30	4
Hoover	21	16	3
F. Roosevelt	372	263	9
Truman	180	70	12
Eisenhower	73	108	2
Kennedy	12	9	0
L. Johnson	16	14	0
Nixon	26	17	7
Ford	48	18	12
Carter	13	18	2
Reagan	39	39	9
G. H.W. Bush	29	17	1
Clinton	36	1	2
G.W. Bush	0	0	0
Total			

Article I
Section 8

Clauses 1-4

WHAT IT SAYS

[1] The Congress shall have Power To lay and collect Taxes, Duties, Imposts 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;

[2] To borrow Money on the credit of the United States;

[3] To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

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

THE FIRST FEDERAL TAX TRIGGERS A REBELLION

Whiskey was the first commodity that Congress taxed. In 1791, Secretary of the Treasury Alexander Hamilton proposed this tax as a way of helping pay for the states' Revolutionary War debts. But because distilling grain into whiskey was an inexpensive and profitable way for farmers to transport their product to market—due to the nation's poor roads—this tax fell hardest on the farmers of the western frontier. In western Pennsylvania angry farmers tarred and feathered the federal agents who tried to collect the unpopular tax and set fire to one tax collector's home. President George Washington and Treasury Secretary Hamilton responded to this Whiskey Rebellion by personally calling up and leading some 13,000 militiamen from Virginia, Maryland, Pennsylvania, and New Jersey against the rebels, who were speedily rounded up and arrested. This action left no doubt about the federal government's power to levy taxes.

WHAT IT MEANS

The eighteen clauses of Article I, section 8 specify the powers of Congress in great detail. These powers are limited to those listed and those that are "necessary and proper" to carry them out. All other law-making powers are left to the states. The First Congress, concerned that the limited nature of the federal government was not clear enough in the original Constitution, adopted the Tenth Amendment, which reserved to the states all the powers not specifically granted to the federal government.

Over time, federal legislation has dealt with many matters that the states had previously managed. In passing these laws, Congress has often relied on the power granted it by the commerce clause (clause 3), which allows Congress to regulate business activities "among the states," because so much business today, either in manufacturing or distribution, crosses state lines. But the commerce clause powers are not unlimited. In recent years, the Supreme Court has expressed greater concern for states' rights. It has issued a series of rulings that limit the power of Congress to pass legislation under the commerce clause or other powers contained in Article I, section 8. For example, these rulings have found unconstitutional federal laws aimed at protecting battered women or protecting schools from gun violence on the ground that these types of police matters are usually managed by the states.

The most important of the specific powers that the Constitution enumerates is the power to set taxes, tariffs (which the Constitution refers to as imposts), and other means of raising federal revenue, and to authorize the expenditure of all federal funds. In addition to the tax powers in Article I, the Sixteenth Amendment (1913) authorized Congress to establish a national income tax. The power to appropriate federal funds is known as the "power of the purse." It gives Congress its greatest authority over the executive branch, which must appeal to Congress for all its funding.

The federal government borrows money by issuing bonds. This creates a national debt, which the United States is obligated to repay. Congress also determines how individuals and corporations can declare bankruptcy. It also has the responsibility of determining naturalization—how immigrants become citizens. Such laws must apply uniformly to all states and cannot be modified by the states. Although bankruptcy and immigration are unrelated, they are linked in this clause by the Constitution's intention to set uniform laws on such national issues.

"The power to tax involves the power to destroy."

— Chief Justice John Marshall, *McCulloch v. Maryland* (1819)

Article I Section 8

Clauses 5-8

WHAT IT SAYS

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

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

[7] To establish Post Offices and post Roads;

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

WHAT IT MEANS

Congress determines what type of money the federal government will issue, both coins and bills, and sets punishments for anyone who tries to counterfeit that currency. In order to deliver the mail across the country, the Constitution authorized Congress to create the necessary infrastructure—post offices and roads. For the general improvement of society, Congress has the right to establish copyright laws and provide patent protection for authors and inventors, so their creative work cannot be pirated.

"The patent system . . . added the fuel of interest to the fire of genius.

— Abraham Lincoln, speech on discoveries and inventions in Jacksonville, Illinois, February 11, 1859

Article I Section 8

Clauses 9-11

WHAT IT SAYS

[9] To constitute Tribunals inferior to the supreme Court;

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

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

FORMAL DECLARATIONS OF WAR

WAR	SENATE VOTE	HOUSE VOTE
War of 1812 Against Great Britain	June 17, 1812, 19–13	June 4, 1812, 79–49
War with Mexico	May 12, 1846, 40–2	May 11, 1846, 174–14
War with Spain	April 25, 1898, voice vote	April 25, 1898, voice vote
World War I, against Germany	April 4, 1917, 82–6	April 6, 1917, 373–50
World War I, against Austria-Hungary	December 7, 1917, 74–0	December 7, 1917, 365–1
World War II, against Japan	December 8, 1941, 82–0	December 8, 1941, 388–1
World War II, against Germany	December 11, 1941, 88–0	December 11, 1941, 393–0
World War II, against Italy	December 11, 1941, 90–0	December 11, 1941, 399–0
World War II, against Bulgaria	June 4, 1942, 73–0	June 3, 1942, 357–0
World War II, against Hungary	June 4, 1942, 73–0	June 3, 1942, 360–0
World War II, against Romania	June 4, 1942, 73–0	June 3, 1942, 361–0

WHAT IT MEANS

In Article III the Constitution established the Supreme Court, but it was left to Congress to create the lower federal court system, such as federal district courts and courts of appeal. Congress may also enact laws to protect American shipping on the seas beyond the national boundaries.

Although the President is the commander in chief, Congress has the constitutional responsibility to declare war. However, Congress has not formally declared war since World War II. Since then it has generally passed resolutions authorizing Presidents to use military forces where necessary. Congress has also relied more on the power of the purse to shape military policy, most notably when it cut off funds for further military action in Southeast Asia in 1975.

Letters of marque and reprisal were eighteenth-century documents that authorized "privateers," or private merchants to seize other nations' ships and cargoes in reprisal for having been pirated themselves. This section of the Constitution has become obsolete over time.

"It is inconsistent to decry war and maintain law, for if there were no need of war there would be no need of law."

— Henry David Thoreau in his journal (1842)

A POLICE ACTION IN KOREA

When North Korea invaded South Korea on June 1, 1950, the United States sent troops to aid South Korea but never formally declared war. Instead, on June 25, the United Nations Security Council declared North Korea's action "a breach of the peace" and called on its members to repel the aggressors. Because most Americans believed that the United States should support its ally South Korea, congressional leaders urged the President to call for a declaration of war that would authorize America's military intervention in the conflict. Instead, President Harry Truman agreed with his secretary of state Dean Acheson, who advised that the president could endorse the United Nations resolution on his authority as commander in chief rather than request congressional approval. Rather than seek a declaration of war, therefore, President Truman cited the UN resolution as his reason for engaging America militarily. The President referred to the Korean situation as a "police action" rather than a war. "Not only has the President the authority to use the Armed Forces in carrying out the broad foreign policy of the United States and implementing treaties," said Secretary of State Acheson, "but it is equally clear that this authority may not be interfered with by the Congress in the exercise of powers which it has under the Constitution." The war in Korea lasted much longer and was much more difficult to fight than either Truman or Acheson had anticipated. As casualties mounted, members of Congress grew more critical of a war they had never endorsed. "This Korean War is a Truman War," claimed his opposition, a charge to which Truman had left himself vulnerable with his decision not to seek congressional approval.

War Powers TIMELINE

The United States takes military action without a declaration of war

1801

When the United States refuses to pay tribute to the North African Barbary pirates, who have been raiding its ships in the Mediterranean, the pasha of Tripoli declares war on the United States. President Thomas Jefferson exerts his powers as commander in chief to set a naval blockade of Tripoli that results in a peace treaty in 1805.

Congress enacts the first declaration of war

1812

Britain's interference with American shipping and a blockade of U.S. ports leads President James Madison to ask Congress for a declaration of war against Great Britain. The House votes 79 to 49 for war on June 4. The Senate votes more narrowly for war, 19 to 13, on June 18. In August 1814, British troops invade Washington, D.C., and burn the White House and Capitol, but are eventually turned back at Baltimore. The inconclusive war is ended by the Treaty of Ghent, but, before word of the treaty reached the United States, Americans score a moralebuilding victory at the Battle of New Orleans in January 1815.

War with Mexico adds vast territories

1846

A border clash between the United States and Mexico over disputed territory between the Rio Grande and Nueces Rivers, leaves eleven Americans dead. President James K. Polk asks Congress for a declaration of war. The House votes 174 to 14 for war on May 11, and the Senate adopts a war resolution the next day by a vote of 40 to 2. American troops capture the Mexican capital of Mexico City. By the Treaty of Guadalupe Hidalgo, Mexico, cedes its northernmost territory to the United States, lands that today include the states of California, Arizona, Utah,Nevada,New Mexico, Colorado, and Wyoming.

Congress enacts the last official declaration of war

1941

On December 7, 1941, a Japanese surprise attack destroys the U.S. fleet at Pearl Harbor, Hawaii, which is a U.S. territory. President Franklin Roosevelt calls for a declaration of war against Japan, which Congress adopts with only one dissenting vote in the House. Japan's allies, Germany and Italy, also declare war on the United States, and Congress unanimously declares war against them. In June 1942, Congress again unanimously declares war on three of Germany's allies, Bulgaria, Hungary, and Romania. Italy is defeated in 1943, and Germany surrenders in May 1945. Following the use of tomic weapons against Hiroshima and Nagasaki, Japan surrenders in August 1945.World War II marks the last time that the U.S. Congress officially declares war against another nation.

The United States engages in a police action in Korea, bypassing Congress

1950

North Korean troops invade South Korea in 1950. President Harry S.Truman does not ask Congress for a declaration of war in support of South Korea but instead dispatches U.S. troops to support the United Nations' effort in Korea, which he calls a police action. An armistice reached in 1953 leaves Korea divided.

The Gulf of Tonkin Resolution substitutes for a declaration of war

1964

After President Lyndon Johnson reports that North Vietnamese patrol boats have fired on American naval vessels in the Gulf of Tonkin, Congress passes the Gulf of Tonkin Resolution. It authorizes the President to take all necessary measures to repel another armed attack and to prevent further aggression. President Johnson later uses the Gulf of Tonkin Resolution as a declaration of war enabling him to commit several hundred thousand American troops to South Vietnam. The United States withdraws its troops from South Vietnam in 1973, after signing a peace treaty. Hostilities between the North and South continue until Congress finally cuts off all military aid to the South in 1975. North Vietnam prevails and unites Vietnam under its rule.

The North views secession as an insurrection

1861

Soon after the election of President Abraham Lincoln, eleven southern states secede from the Union and form the Confederacy. When Lincoln declines to surrender Fort Sumter in the harbor of Charleston, South Carolina, Confederate forces fire upon and capture the fort. Lincoln then declares that an insurrection exists and calls on Northerners to volunteer for military service. Lincoln calls Congress into emergency session on July 4 but does not seek a formal declaration of war. After four brutal years of fighting, the South surrenders in April 1865.

The Spanish-American War ends swiftly

1898

The American public is outraged over reports of Spanish atrocities in Cuba, and the explosion and sinking of the USS Maine in Havana Harbor. President William McKinley responds to sentiments in Congress with a war message on April 11. On April 25, the House and Senate declare war by voice votes. The brief conflict sees American victories against the Spanish in Cuba and the Philippines.

The United States is drawn into a European war

1917

In 1914 the Triple Entente of Great Britain, France, and Russia goes to war against the Triple Alliance of Germany, Austria-Hungary, and Italy. The United States stays neutral until German attacks on American shipping convince President Woodrow Wilson to ask Congress, in 1917, for a declaration of war. The Senate passes the war resolution by a vote of 82 to 6 on April 4, and the House by a vote of 373 to 50 on April 6. Entry of U.S. forces into the conflict tips the balance against Germany, which accepts an armistice in November 1918. The Senate twice defeats the Treaty of Versailles. But, the Senate finally approves a treaty with Germany that formally ends the war in 1921.

Congress reasserts its authority with the War Powers Resolution

1973

Congressional frustration with the prolonged war in Vietnam leads to passage of the War Powers Resolution in 1973, over President Nixon's veto. The War Powers Resolution requires Presidents to notify Congress within forty-eight hours after committing U.S. combat troops abroad, and establishes a sixty-day limit on the deployment of American troops in combat overseas without congressional approval.

The United States goes to war in the Persian Gulf by UN resolution

1991

After Iraq invades Kuwait and threatens Saudi Arabia, President George H.W. Bush organizes a multinational coalition and persuades the United Nations to impose sanctions on Iraq and set a deadline for Iraq's withdrawal. Congress passes a resolution authorizing the use of force in support of the United Nations. On January 16, 1991, American-led coalition forces attack Iraqi positions. The war ends in one hundred hours, with Kuwait freed from Iraqi occupation.

The United States responds to terrorism

2001

The United States responds to terrorist attacks in New York City and Washington, D.C., on September 11, 2001, by attacking Afghanistan, which had hosted the terrorist organization responsible for the attacks. President George W. Bush then asserts the nation's right to fight preemptive wars. He identifies Iraq as having links to terrorists and warns that it possesses weapons of mass destruction. When the United Nations fails to authorize the use of force against Iraq, Congress grants President Bush authority to commit U.S. forces, which invade and defeat Iraq, capturing its leader, Saddam Hussein.

Article I Section 8

Clauses 12-16

WHAT IT SAYS

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

[13] To provide and maintain a Navy;

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

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

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

EISENHOWER CALLS UP THE ARKANSAS NATIONAL GUARD

Shocked by the Supreme Court's ruling in *Brown v. Board of Education* (1954), southern states resisted racial desegregation of their public schools. In 1957, a federal court approved a plan for the gradual integration of the allwhite Central High School in Little Rock, Arkansas. Rejecting a more comprehensive proposal by civil rights advocates, the court ordered that just nine African American students be admitted at first. Arkansas governor Orval Faubus then posted troops from the state's National Guard outside the school—to prevent violence, he said. When the African American students attempted to enter the school, the troops barred their way. President Dwight D. Eisenhower strongly encouraged Governor Faubus to honor the court's ruling. But the governor simply withdrew the National Guard and left the students to the mercy of an angry mob that forced them away from the school. President Eisenhower declared that he would not allow such defiance of a federal court's ruling. He took charge of the Arkansas National Guard and sent a thousand U.S. Army paratroopers to Little Rock to ring the school and allow the students to enter safely. The troops protected the students for the rest of the school year. Governor Faubus ordered all of Little Rock's public high schools to close for the next year, until a federal court then struck down Arkansas's school closing law as unconstitutional. In 1959, Arkansas's integrated schools reopened.

WHAT IT MEANS

Congress grants the military authority and appropriations to maintain forts, arsenals, and naval yards. The executive branch can spend only what Congress appropriates, and Congress may not pass any appropriation of funds for longer than two years. Traditionally, Congress makes only annual appropriations, requiring all military and civilian agencies to request funds every year. This "power of the purse" gives Congress the opportunity to review and to influence military policy.

The states operate militias, such as the National Guard, under the laws passed by Congress. The federal government may call up these forces in times of national emergency. For instance, in 1795, Congress authorized President George Washington to use the militia to suppress the antitax Whiskey Rebellion in western Pennsylvania. In 1957, President Dwight D. Eisenhower used the Arkansas National Guard to protect students integrating a Little Rock high school. In 2003, President George W. Bush sent National Guard troops into combat in Iraq.

THE APPROPRIATIONS COMMITTEES

Among the most powerful committees of the Senate and House of Representatives are the Appropriations Committees. Each of their subcommittees deals with specific areas of the government, such as the armed services, the courts, the cabinet departments, and the legislative branch itself. The chairmen of these subcommittees are known as the "cardinals" in recognition of their prestige and influence. Senators and representatives seek membership on the Appropriations Committees as a way of channeling federal funds back to their home states and districts. For instance, a representative's membership on the Appropriations Committee may help secure funds to build a highway through his or her congressional district, or locate a veterans hospital there.

At different times in the nineteenth century, Congress experimented with having all its standing committees appropriate funds in their areas of jurisdiction. Having authorized legislation, these committees naturally wanted to fully fund all their projects. This created a lack of control over spending and persuaded Congress to concentrate the power of the purse in its Appropriations Committees.

"Judges are not given the task of running the Army. The responsibility for setting up the channels through which such grievances can be considered and fairly settled rests upon the Congress and upon the President of the United States and his subordinates. The military constitutes a separate discipline from that of the civilian."

—Justice Robert H. Jackson, *Orloff v. Willoughby* (1953)

Article I Section 8

Clauses 17-18

"The Constitution was not made to fit us like a strait jacket. In its elasticity lies its chief greatness.""

— Woodrow Wilson, public address at Cooper Union in New York City on November 19, 1904

WHAT IT SAYS

[17] 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

[18] 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.

WHAT IT MEANS

Since 1800, the federal government has operated within the District of Columbia, an area consisting of land ceded by the states of Maryland and Virginia. For many years, Congress directly governed the District, but in 1967 it established a locally elected government. Even with such "home rule," Congress retained oversight over the District's laws and budget. Because the framers of the Constitution could not anticipate the range of issues that Congress would face in the future, they gave Congress great latitude in making all laws "necessary and proper" to carry out its general powers. This is known as the "elastic clause," and it enables Congress to address new problems as they arise so long as these laws are consistent with the powers stated above.

HOME RULE FOR THE NATION'S CAPITAL

The half million residents of the District of Columbia, the nation's capital, have no senators and only a single nonvoting delegate in the House of Representatives. Until the ratification of the Twenty-first Amendment in 1961, people living in the District could not vote for President. The Constitution gives Congress control over the District, and for many years the District of Columbia Committees of the Senate and House essentially operated as the local government. In 1968, at the urging of President Lyndon B. Johnson, Congress approved a "home rule" bill that enabled the District to elect a mayor and city council.While this government has much autonomy in day-to-day operations, Congress retains the power to reject the District's tax and spending programs. In 1978, Congress passed a constitutional amendment that would have made the District of Columbia a state with full representation in Congress. Yet only sixteen states ratified the amendment within the allotted seven years, and it failed to become part of the Constitution.

Article I
Section 9

Clauses 1-4

WHAT IT SAYS

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

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

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

[4] [No capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.]**

* This provision became obsolete after 1808, when the Constitution prohibited further importation of slaves.

** Revised by the Sixteenth Amendment.

HOLDING PRISONERS INDEFINITELY AT THE GUANTANAMO NAVAL BASE

After the radical Islamic group al Qaeda committed vicious acts of terrorism against the World Trade Center in New York City and the Pentagon in Washington, D.C., on September 11, 2001, Congress authorized President George W. Bush to use military force against the "nations, organizations, or persons" who planned the attacks. The United States quickly sent armed forces to Afghanistan, where the country's rulers, the Taliban, had allowed al Qaeda terrorists to set up bases. U.S. forces captured many prisoners who were suspected of having aided the Taliban and the terrorists. President Bush signed a military order that permitted U.S. Defense Department officials to hold such prisoners indefinitely without trial, because they posed a threat to national security. The President's order allowed those arrested to be held without charges and without the right to counsel. The President further directed the Pentagon to create military tribunals, but set no deadline for them, so the detainees were held for years without trial at the U.S. naval base in Guantanamo Bay, Cuba. On behalf of the 595 detainees, the Center for Constitutional Rights, a civil liberties organization, filed a habeas corpus suit against the government. The Supreme Court ruled in Rasul v. Bush (2004) that the due process clause requires that even in time of war the foreign prisoners who claimed they were being unlawfully imprisoned could take their cases to U.S. civilian courts. Because the base was outside the United States, the Bush administration argued that anyone held there was outside the jurisdiction of the U.S. civilian courts.

WHAT IT MEANS

Article I, section 9, details areas in which Congress cannot legislate. In the first clause, the Constitution banned Congress from ending the slave trade before the year 1808.

In the second and third clauses, the Constitution specifically guarantees rights to those accused of crimes. It provides that a writ of habeas corpus (a Latin phrase meaning "produce the body"), which allows prisoners the right to challenge their detention, cannot be suspended except under extreme circumstances, such as rebellion or invasion, when there is a public danger. Habeas corpus has been suspended only on rare occasions in American history. For example, President Abraham Lincoln suspended the writ during the Civil War. In 1871, the federal government also suspended habeas corpus in South Carolina to combat the Ku Klux Klan.

The Constitution similarly prohibits bills of attainder, which are laws directed against specific individuals or groups, declaring them guilty of a serious crime—such as treason—by legislation rather than by a jury trial. This ban was intended to ensure that the legislative branch did not bypass the courts and deny people the protections designed for criminal defendants and guaranteed elsewhere in the Constitution. In addition, there can be no "ex post facto" (Latin for "after the fact") laws—or laws passed to make an action illegal after it has already happened. This protection guarantees that individuals are warned ahead of time that their actions are illegal.

The fourth clause, which prevented the imposition of direct taxes, caused the Supreme Court to strike down a national income tax in 1895. To expand federal revenues, Congress proposed and the states ratified the Sixteenth Amendment (1913), permitting the federal government to levy an income tax.

"If I be wrong on this question of Constitutional power [suspension of habeas corpus], my error lies in believing that certain proceedings are constitutional, when, in cases of rebellion or invasion, the public safety requires them."

— Abraham Lincoln, letter to Erastus Corning, June 12, 1863

Article I Section 9

Clauses 5-8

"It was my understanding of both English and Roman history that inspired me in opposing the Reagan and Bush dministration's efforts to grasp more and more power at the expense of the legislative branch—particularly with regard to . . .the Congressional power over the public purse."

—Senator Robert C. Byrd, address to the American Historical Society, January 8, 2004

WHAT IT SAYS

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

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

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

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

WHAT IT MEANS

In order to ensure equality between the states, the Constitution prohibits states from imposing taxes upon goods coming into their states from another state and prevents Congress from favoring the ports of one state over the ports of others. This provision made the entire United States a free trade zone, where no fees would be charged to import or export goods from state to state. Further, Congress could enact tariffs on goods imported from abroad, but it could not tax goods exported from any of the states.

The government cannot spend any public money unless Congress has appropriated it. Furthermore, Congress is required to produce a regular accounting of all the money the government spends. Having fought a revolution to end aristocratic rule, and rejecting government by monarchy, the framers of the Constitution forbid Congress from establishing any American titles of nobility. It prohibited federal officials from accepting a title of nobility, office, or gifts from any foreign nation without congressional authorization.

STATE TARRIFS

Under the Articles of Confederation, the states could set tariffs on goods imported from other nations and from other states. In attempts to raise revenue and to protect their own industries, various states imposed tariffs on woolen and cotton cloth, silks, hats, jewelry, silverware, and other goods. These tariffs disturbed European nations that exported the goods, including France, a strong ally during the American Revolution. Anti-British feelings still ran strong, and some states imposed specific taxes on British shipments to the United States. Only the northern states imposed such tariffs. The agrarian southern states depended on imported goods and wanted to avoid retaliatory tariffs imposed on their own agricultural products.

Both shippers and consumers soughta uniform national trade policy, but the Articles of Confederation did not extend this power to Congress. Congress could only request that the states take action, and each acted to its own perceived benefit. Amending the articles required the unanimous approval of all the states, which proved impossible to attain. It was a question of trade between the states that led Virginia to call for the Annapolis Convention of 1786, and eventually resulted in the Constitutional Convention of 1787. Setting restrictions on the states and granting the federal government authority over interstate and international trade were therefore prime reasons for writing a new constitution.

Article I Section 10

Clauses 1-3

WHAT IT SAYS

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

STATE BANK NOTES VERSUS FEDERAL DOLLARS

During the colonial era, the colonies relied on Europe to mint silver and gold coins and printed their own money. To finance the American Revolution, the Continental Congress authorized the printing of paper money, known as Continentals, which soon became devalued. This practice gave rise to the then-popular expression that something that was worthless was "not worth a Continental."

Although the Constitution prohibited the states from coining money and left matters of currency to the federal government, Congress authorized the private Bank of the United States to issue paper currency. This system continued until 1832, when President Andrew Jackson vetoed the renewal of the bank's charter.Without a national bank, state banks began issuing paper currency. This situation produced a wide variety of bills in different sizes, shapes, colors, and designs, many of them drawn on dubious banks and not worth their face value. To bring some order to American currency, Congress passed the National Bank Act of 1863, which enabled the federal government to print and issue federal bank notes. The system remained unstable, however, and in 1913 Congress set up the Federal Reserve Board to regulate the money supply by setting interest rates and to regulate the nation's banks. Today's dollar bills, therefore, are Federal Reserve notes, issued by the Federal Reserve Banks.

WHAT IT MEANS

Article I, section 10 limits the power of the states. No state may enter into a treaty with a foreign nation as that power belongs to the President, with the advice and consent of two-thirds of the Senate. States cannot make their own money nor can they grant any titles of nobility. Like Congress, the states are prohibited from passing laws that assign guilt to someone without court proceedings (bills of attainder), that make some act illegal retroactively (ex post facto laws), or that interfere with legal contracts.

Under the federal system, the states retain sovereignty but the Constitution prohibits them from exercising powers granted to Congress, such as collecting taxes on exports and imports, building an army or keeping warships in time of peace, or otherwise engaging in war unless invaded or in imminent danger. States are also prohibited from charging "duties of tonnage," which refers to fees on the cargo-carrying capabilities of any ship.

"For most men and women now living, national loyalty [as opposed to state loyalty] dates from the earliest memory or from adolescence, and because that is true, state sovereignty is a lifeless legalism."

—Irving Brandt,
Storm over the Constitution (1936)