

Readings

Unit 2

- Introduction—The Constitution: Fixed or Flexible?
- Tocqueville, *Democracy in America*: “History of the Federal Constitution”
- The Declaration of Independence (Jefferson’s Draft)
- The United States Constitution and the Amendments to the U.S. Constitution
- *Federalist Papers*: “Federalist No. 51”

Questions

1. What two opposing tendencies arose in the United States after the revolution, according to Tocqueville?
2. What truth did Jefferson assert as self-evident?
3. Who ordained and established the United States Constitution?
4. Fully explain what “Federalist No. 51” says is “the great security against a gradual concentration of the several powers in the same department.”

Introduction—The Constitution: Fixed or Flexible?

Imagining that government should be a creature of the law and obedient to law was one of the significant intellectual accomplishments of the British colonists in North America; this accomplishment went a long way toward turning them into Americans. The development of a sophisticated understanding of American democracy, politics, and citizenship requires attention to the importance of the Constitution, the law superior to the government, as a template for debate within the United States—virtually all political issues in America resound with constitutional import. “In America,” wrote Tocqueville, “the Constitution may therefore vary; but as long as it exists, it is the origin of all authority, and the sole vehicle of the predominating force.”

The Constitution was widely perceived—eventually—as a protection against government expansion (though by some it was perceived as a tool for government expansion) and was the product of American disagreement with the British conception of limited government. Britain greatly angered the British citizens in America when Parliament taxed them to help fund the French and Indian War. They responded, as all American school children know, with the slogan, “No Taxation Without Representation.” When Parliament refused to relent on what appeared to the British in Britain to be a fair sharing of the burden and expense of protecting the colonists during the war, the British colonials eventually decided to secede. The colonists argued that it was illegal for Parliament to tax them—that is, they argued that it was a violation of the British Constitution. It was unconstitutional, they said, for Britain to tax them since they had no representation in the British Parliament. For the British, the Parliament was an essential part of the Constitution, so that it made no sense to imagine that the Constitution could violate the Constitution. Around this struggle the colonists began to conceive of a government created and limited by law, especially by a written law. The belief that the government itself is created by law means that government is ostensibly limited and controlled by law. It also means that many political issues in the United States become constitutional issues in which Americans look to the Constitution for answers and directions.

Understanding the life of the Constitution and of conceptions of constitutionalism requires some fairly common readings: the Declaration of Independence, the Constitution, and “Federalist No. 51.” The Declaration of Independence and the Constitution are quite different documents, but they function as “founding” texts for the American Revolution and government. The *Federalist Papers*, for their part, explained parts of the Constitution as the supporters of the text wanted them explained, and have become very important to the contemporary debates over what the Constitution meant and means.

To understand what the framers were trying to accomplish, one can do worse than to examine the institutional arrangement the Constitution attempted to replace. Furthermore, the voices of critics should be given their due. Contemporary readers of the Anti-Federalists are often surprised to find early versions of complaints they themselves have made about the government; particularly that it is too powerful.

Alexis de Tocqueville, *Democracy in America*: “History of the Federal Constitution”

In “The Federal Constitution” (Volume I, Chapter VIII)

I have hitherto considered each state as a separate whole and have explained the different springs which the people there put in motion, and the different means of action which it employs. But all the states which I have considered as independent are yet forced to submit, in certain cases, to the supreme authority of the Union. The time has now come to examine the portion of sovereignty that has been granted to the Union, and to cast a rapid glance over the Federal Constitution.

HISTORY OF THE FEDERAL CONSTITUTION. Origin of the first Union—Its weakness—Congress appeals to the constituent authority—Interval of two years between this appeal and the promulgation of the new Constitution.

THE thirteen colonies, which simultaneously threw off the yoke of England towards the end of the last century, had, as I have already said, the same religion, the same language, the same customs, and almost the same laws; they were struggling against a common enemy; and these reasons were sufficiently strong to unite them to one another and to consolidate them into one nation. But as each of them had always had a separate existence and a government within its reach, separate interests and peculiar customs had sprung up which were opposed to such a compact and intimate union as would have absorbed the individual importance of each in the general importance of all. Hence arose two opposite tendencies, the one prompting the Anglo-Americans to unite, the other to divide, their strength.

As long as the war with the mother country lasted, the principle of union was kept alive by necessity; and although the laws that constituted it were defective, the common tie subsisted in spite of their imperfections. But no sooner was peace concluded than the faults of this legislation became manifest, and the state seemed to be suddenly dissolved. Each colony became an independent republic, and assumed an absolute sovereignty. The Federal government, condemned to impotence by its Constitution and no longer sustained by the presence of a common danger, witnessed the outrages offered to its flag by the great nations of Europe, while it was scarcely able to maintain its ground against the Indian tribes, and to pay the interest of the debt which had been contracted during the War of Independence. It was already on the verge of destruction when it officially proclaimed its inability to conduct the government and appealed to the constituent authority.

If America ever approached (for however brief a time) that lofty pinnacle of glory to which the proud imagination of its inhabitants is wont to point, it was at this solemn moment, when the national power abdicated, as it were, its authority. All ages have furnished the spectacle of a people struggling with energy to win its independence, and the efforts of the Americans in throwing off the English yoke have been considerably exaggerated. Separated from their enemies by three thousand miles of ocean, and backed by a powerful ally, the United States owed their victory much more to their geographical position than to the valor of their armies or the patriotism of their citizens. It would be ridiculous to compare the American war to the wars of the French Revolution, or the efforts of the Americans to those of the French when France, attacked by the whole of Europe, without money, without credit, without allies, threw forward a twentieth part of her population to meet her enemies and with one hand carried the torch of revolution beyond the frontiers, while she stifled with the other a flame that was devouring the country within. But it is new in the history of society to see a great people turn a calm and scrutinizing eye upon itself when apprised by the legislature that the wheels of its government are stopped, to see it carefully examine the extent of the evil, and patiently wait two whole years until a remedy is discovered, to which it voluntarily submitted without its costing a tear or a drop of blood from mankind.

When the inadequacy of the first Constitution was discovered, America had the double advantage of that calm which had succeeded the effervescence of the Revolution, and of the aid of those great men whom the Revolution had created. The assembly which accepted the task of composing the second Constitution was small; but George Washington was its President, and it contained the finest minds and the noblest characters that had ever appeared in the New World. This national Convention, after long and mature deliberation, offered for the acceptance of the people the body of general laws which still rules the Union. All the states adopted it successively. The new Federal government commenced its functions in 1789, after an interregnum of two years. The Revolution of America terminated precisely when that of France began.

SUMMARY OF THE FEDERAL CONSTITUTION. Division of authority the Federal government and the states—The government of the states is the rule, the Federal government the exception.

History of the Federal Constitution, cont'd.

THE first question which awaited the Americans was so to divide the sovereignty that each of the different states which composed the Union should continue to govern itself in all that concerned its internal prosperity, while the entire nation, represented by the Union, should continue to form a compact body and to provide for all general exigencies. The problem was a complex and difficult one. It was as impossible to determine beforehand, with any degree of accuracy, the share of authority that each of the two governments was to enjoy as to foresee all the incidents in the life of a nation.

The obligations and the claims of the Federal government were simple and easily definable because the Union had been formed with the express purpose of meeting certain great general wants; but the claims and obligations of the individual states, on the other hand, were complicated and various because their government had penetrated into all the details of social life. The attributes of the Federal government were therefore carefully defined, and all that was not included among them was declared to remain to the governments of the several states. Thus the government of the states remained the rule, and that of the confederation was the exception.

But as it was foreseen that, in practice, questions might arise as to the exact limits of this exceptional authority, and it would be dangerous to submit these questions to the decision of the ordinary courts of justice, established in the different states by the states themselves, a high Federal court was created, one of whose duties was to maintain the balance of power between the two rival governments as it had been established by the Constitution.

POWERS OF THE FEDERAL GOVERNMENT. Power of declaring war, making peace, and levying general taxes vested in the Federal government—What part of the internal policy of the country it may direct—The government of the Union in some respects more centralized than the king's government in the old French monarchy.

THE people in themselves are only individuals; and the special reason why they need to be united under one government is that they may appear to advantage before foreigners. The exclusive right of making peace and war, of concluding treaties of commerce, raising armies, and equipping fleets, was therefore granted to the Union. The necessity of a national government was less imperiously felt in the conduct of the internal affairs of society; but there are certain general interests that can only be attended to with advantage by a general authority. The Union was invested with the power of controlling the monetary system, carrying the mails, and opening the great roads that were to unite the different parts of the country. The independence of the government of each state in its sphere was recognized; yet the Federal government was authorized to interfere in the internal affairs of the states in a few predetermined cases in which an indiscreet use of their independence might compromise the safety of the whole Union. Thus, while the power of modifying and changing their legislation at pleasure was preserved to each of the confederate republics, they are forbidden to enact *ex post facto* laws or to grant any titles of nobility. Lastly, as it was necessary that the federal government should be able to fulfill its engagements, it has an unlimited power of levying taxes.

In examining the division of powers as established by the Federal Constitution, remarking on the one hand the portion of sovereignty which has been reserved to the several states, and on the other the share of power which has been given to the Union, it is evident that the Federal legislators entertained very clear and accurate notions respecting the centralization of government. The United States form not only a republic but a confederation; yet the national authority is more centralized there than it was in several of the absolute monarchies of Europe. I will cite only two examples.

Thirteen supreme courts of justice existed in France, which, generally speaking, had the right of interpreting the law without appeal; and those provinces that were styled *pays d'état* were authorized to refuse their assent to an impost which had been levied by the sovereign, who represented the nation.

In the Union there is but one tribunal to interpret, as there is one legislature to make, the laws; and a tax voted by the representatives of the nation is binding upon all the citizens. In these two essential points, therefore, the Union is more centralized than the French monarchy, although the Union is only an assemblage of confederate republics.

In Spain certain provinces had the right of establishing a system of custom-house duties peculiar to themselves, although that privilege belongs, by its very nature, to the national sovereignty. In America Congress alone has the right of regulating the commercial relations of the states with each other. The government of the confederation is therefore more centralized in this respect than the Kingdom of Spain. It is true that the power of the crown in France or Spain was always able to obtain by force whatever the constitution of the country denied, and that the ultimate result was consequently the same; but I am here discussing the theory of the constitution.

After having settled the limits within which the Federal government was to act, the next point was to determine how it should be put in action.

The Declaration of Independence (Jefferson's Draft)

Thomas Jefferson was selected to write the Declaration of Independence by The Committee of Five, which included himself, John Adams, Benjamin Franklin, Robert Livingston, and Roger Sherman. Drafted between June 11 and June 28, 1776, the document drew heavily on John Locke's Second Treatise of Government, state and local calls for independence, and his own work on the Virginia Constitution. Jefferson, the Committee, and the Continental Congress revised the draft repeatedly; Jefferson particularly opposed the Congress's removal of a long paragraph that ascribed liability of the slave trade to King George III. On the afternoon of July 4, 1776, 12 of the 13 colonies agreed to sign the document declaring the new states to be an independent nation.

Jefferson's Draft of the Declaration of Independence

28 June, 1776

(As it probably read when Jefferson submitted it for corrections. There are some changes in the original text, here indicated by [...] which could be by Jefferson himself, though some appear to be in the hand of John Adams.)

A Declaration by the Representatives of United States of America, in General Congress Assembled

When, in the course of human events, it becomes necessary for a people to advance from that subordination in which they have hitherto remained, and to assume among the powers of the earth, the equal and independent station to which the laws of nature and of nature's god entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the change.

We hold these truths to be [sacred and undeniable] selfevident, that all men are created equal and independent; that from that equal creation they derive in rights inherent and inalienables, among which are the preservation of life, and liberty and the pursuit of happiness; that to secure these ends, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government shall become destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing it's powers in such form, as to them shall seem most likely to effect their safety and happiness, prudence, indeed, will dictate that governments long established should not be changed for light and transient causes: and accordingly all experience hath shewn that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed, but when a long train of abuses and usurpations, begun at a distinguished period, and pursuing invariably the same object evinces a design to [subject] reduce them to arbitrary power, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security.

Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to expunge their former systems of government, the history of his present majesty is a history of unremitting injuries and usurpations, among which no fact stands single or solitary to contradict the uniform tenor of the rest, all of which have in direct object the establishment of an absolute tyranny over these states. to prove this, let facts be submitted to a candid world, for the truth of which we pledge a faith yet unsullied by falsehood.

He has refused his assent to laws, the most wholesome and necessary for the public good:

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

He has refused to pass other laws for the accommodation of large districts of people unless those people would relinquish the right of representation [in the legislature], a right inestimable to them and formidable to tyrants only:

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

[he has dissolved]he has refused for a long space of time, to cause others to be elected, whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise, the state remaining in the meantime exposed to all the dangers of invasion from without, and convulsions within:

Jefferson's Draft of the Declaration of Independence, cont'd.

he has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands:

he has suffered the administration of justice totally to cease in some of these colonies, refusing his assent to laws for establishing judiciary powers:

he has made our judges dependent on his will alone, for the tenure of their offices, and the amount of their salaries.

he has erected a multitude of new offices by a self-assumed power, and sent hither swarms of officers to harrass our people, and eat out their substance.

he has kept among us, in times of peace, standing armies and ships of war:

he has affected to render the military, independent of and superior to civil power:

he has combined with others to subject us to a jurisdiction foreign to our constitutions, and unacknowledged by our laws; giving his assent to their pretended acts of legislation, for quartering large bodies of armed troops among us;

for protecting them, by mock trial, from punishment for any murders [which] they should commit on the inhabitants of these states; for cutting off our trade with all parts of the world;

for imposing taxes on us without our consent;

for depriving us of the benefits of trial by jury;

for transporting us beyond seas to be tried for pretended offenses;

for taking away our charters, and altering fundamentally the forms of our governments;

for suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever;

he has abdicated government here, withdrawing his governors, and declaring us out of his allegiance and protection;

he has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people:

he is at this time transporting large armies of foreign mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of cruelty and perfidy unworthy the head of a civilized nation:

he has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions of existence:

he has incited treasonable insurrections of our fellow citizens with the allurements of forfeiture and confiscation of our property:

he has waged cruel war against human nature itself, violating it's most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation hither. this piratical warfare, the opprobrium of infidel powers, is the warfare of the Christian king of Great Britain. [determined to keep open a market where MEN should be bought and sold,] he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce [determining to keep open a market where MEN should be bought and sold]: and that this assemblage of horrors might want no fact of distinguished die, he is now exciting those very people to rise in arms among us, and to purchase that liberty of which he had deprived them, by murdering the people upon whom he also obruded them: thus paying off former crimes committed against the liberties of one people, with crimes which he urges them to commit against the lives of another.

Jefferson's Draft of the Declaration of Independence, cont'd.

in every stage of these oppressions we have petitioned for redress in the most humble terms: our repeated petitions have been answered only by repeated injury. a prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a people who mean to be free, future ages will scarce believe that the hardiness of one man, adventured within the short compass of twelve years only, on so many acts of tyranny without a mask, over a people fostered and fixed in principles of liberty.

Nor have we been wanting in attention to our British brethren, we have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over these our states, we have reminded them of the circumstances of our emigration and settlement here, no one of which could warrant so strange a pretension: that these were effected at the expence of our own blood and treasure, unassisted by the wealth or the strength of Great Britain: that in constituting indeed our several forms of government, we had adopted one common king, thereby laying a foundation for perpetual league and amity with them: but that submission to their parliament was no part of our constitution, nor ever in idea, if history may be credited: and we appealed to their native justice and magnanimity, as well as to the ties of our common kindred to disavow these usurpations, which were likely to interrupt our correspondence and connections. they too have been deaf to the voice of justice and of consanguinity, and when occasions have been given them, by the regular course of their laws, of removing from their councils the disturbers of our harmony, they have by their free election re-established them in power. at this very time too they are permitting their chief magistrate to send over not only soldiers of our common blood, but Scotch and foreign mercenaries to invade and deluge us in blood. these facts have given the last stab to agonizing affection, and manly spirit bids us to renounce forever these unfeeling brethren. We must endeavor to forget our former love for them, and hold them, as we hold the rest of mankind, enemies in war, in peace friends. we might have been a free and a great people together; but a communication of grandeur and of freedom it seems is below their dignity, be it so, since they will have it: the road to [glory and] happiness [and to glory] is open to us too; we will climb it apart from them [in a seperate state] and acquiesce in the necessity which denounces [pronounces][our [everlasting Adieu!] eternal separation!

We, therefore, the representatives of the United States of America, in General Congress, assembled do , in the name, and by the authority of the good people of these states, reject and renounce the allegiance and subjection to the kinds of Great Britain and all others who may hereafter claim by, through, or under them; we utterly dissolve and break off all political connection which may have heretofore subsisted between us and the people or parliament of Great Britain; and finally we do assert and declare these colonies to be free and independent states, and that as free and independent states they shall hereafter have [full] power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration we mutually pledge to each other our lives, our fortunes and our sacred honor.

The United States Constitution

(See Note 1)

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

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.

Section 2.

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

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

Clause 3: Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. *(See Note 2)* 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.

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

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

Section 3.

Clause 1: The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, *(See Note 3)* for six Years; and each Senator shall have one Vote.

Clause 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. *(See Note 4)*

Clause 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.

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

The United States Constitution, cont'd.

Clause 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.

Clause 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.

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

Section 4.

Clause 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.

Clause 2: The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, (*See Note 5*) unless they shall by Law appoint a different Day.

Section 5.

Clause 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.

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

Clause 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.

Clause 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.

Section 6.

Clause 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. (*See Note 6*) 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.

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

Section 7.

Clause 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.

Clause 2: Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both

The United States Constitution, cont'd.

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.

Clause 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.

Section 8.

Clause 1: The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

Clause 2: To borrow Money on the credit of the United States;

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

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

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

Clause 6: To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

Clause 7: To establish Post Offices and post Roads;

Clause 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;

Clause 9: To constitute Tribunals inferior to the supreme Court;

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

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

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

Clause 13: To provide and maintain a Navy;

Clause 14: To make Rules for the Government and Regulation of the land and naval Forces;

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

Clause 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;

Clause 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

The United States Constitution, cont'd.

Clause 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.

Section 9.

Clause 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.

Clause 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.

Clause 3: No Bill of Attainder or ex post facto Law shall be passed.

Clause 4: No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken. (*See Note 7*)

Clause 5: No Tax or Duty shall be laid on Articles exported from any State.

Clause 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.

Clause 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.

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

Section 10.

Clause 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.

Clause 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 it's 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.

Clause 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.

Article II.

Section 1.

Clause 1: The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

Clause 2: Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

Clause 3: The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of

The United States Constitution, cont'd.

the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President. *(See Note 8)*

Clause 4: The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

Clause 5: No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

Clause 6: In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, *(See Note 9)* the Same shall devolve on the VicePresident, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

Clause 7: The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Clause 8: Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section 2.

Clause 1: The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

Clause 2: He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

Clause 3: The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section 3.

He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

The United States Constitution, cont'd.

Section 4.

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Article III.

Section 1.

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section 2.

Clause 1: The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State; (*See Note 10*)—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

Clause 2: In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Clause 3: The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section 3.

Clause 1: Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

Clause 2: The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

Article IV.

Section 1.

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

Section 2.

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

Clause 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.

Clause 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. (*See Note 11*)

The United States Constitution, cont'd.

Section 3.

Clause 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.

Clause 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.

Section 4.

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.

Article V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Article VI.

Clause 1: All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

Clause 2: This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Clause 3: The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Article VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth In witness whereof We have hereunto subscribed our Names,

The United States Constitution, cont'd.

GO WASHINGTON—Presidt. and deputy from Virginia	North Carolina	Connecticut
[Signed also by the deputies of twelve States.]	Wm. Blount	Wm. Saml. Johnson
Delaware	Richd. Dobbs Spaight	Roger Sherman
Geo: Read	Hu Williamson	New York
Gunning Bedford jun	South Carolina	Alexander Hamilton
John Dickinson	J. Rutledge	New Jersey
Richard Bassett	Charles Cotesworth Pinckney	Wil: Livingston
Jaco: Broom	Charles Pinckney	David Brearley
Maryland	Pierce Butler	Wm. Paterson
James McHenry	Georgia	Jona: Dayton
Dan of St Thos. Jenifer	William Few	Pennsylvania
Danl Carroll	Abr Baldwin	B Franklin
Virginia	New Hampshire	Thomas Mifflin
John Blair	John Langdon	Robt. Morris
James Madison Jr.	Nicholas Gilman	Geo. Clymer
	Massachusetts	Thos. FitzSimons
	Nathaniel Gorham	Jared Ingersoll
	Rufus King	James Wilson
		Gouv Morris
		Attest William Jackson Secretary

NOTES

Note 1: This text of the Constitution follows the engrossed copy signed by Gen. Washington and the deputies from 12 States.

The Constitution was adopted by a convention of the States on September 17, 1787, and was subsequently ratified by the several States, on the following dates: Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 9, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788.

Ratification was completed on June 21, 1788.

The Constitution was subsequently ratified by Virginia, June 25, 1788; New York, July 26, 1788; North Carolina, November 21, 1789; Rhode Island, May 29, 1790; and Vermont, January 10, 1791.

In May 1785, a committee of Congress made a report recommending an alteration in the Articles of Confederation, but no action was taken on it, and it was left to the State Legislatures to proceed in the matter. In January 1786, the Legislature of Virginia passed a resolution providing for the appointment of five commissioners, who, or any three of them, should meet such commissioners as might be appointed in the other States of the Union, at a time and place to be agreed upon, to take into consideration the trade of the United States; to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony; and to report to the several States such an act, relative to this great object, as, when ratified by them, will enable the United States in Congress effectually to provide for the same. The Virginia commissioners, after some correspondence, fixed the first Monday in September as the time, and the city of Annapolis as the place for the meeting, but only four other States were represented, viz: Delaware, New York, New Jersey, and Pennsylvania; the commissioners appointed by Massachusetts, New Hampshire, North Carolina, and Rhode Island failed to attend. Under the circumstances of so partial a representation, the commissioners present agreed upon a report, (drawn by Mr. Hamilton, of New York,) expressing their unanimous conviction that it might essentially tend to advance the interests of the Union if the States by which they were respectively delegated would concur, and use their endeavors to procure the concurrence of the other States, in the appointment of commissioners to meet at Philadelphia on the Second Monday of May following, to take into consideration the situation of the United States; to devise such further provisions as should appear to them necessary to render the Constitution of the Federal Government adequate to the exigencies of the Union; and to report such an act for that purpose to the United States in Congress assembled as, when agreed to by them and afterwards confirmed by the Legislatures of every State, would effectually provide for the same.

The United States Constitution, cont'd.

Congress, on the 21st of February, 1787, adopted a resolution in favor of a convention, and the Legislatures of those States which had not already done so (with the exception of Rhode Island) promptly appointed delegates. On the 25th of May, seven States having convened, George Washington, of Virginia, was unanimously elected President, and the consideration of the proposed constitution was commenced. On the 17th of September, 1787, the Constitution as engrossed and agreed upon was signed by all the members present, except Mr. Gerry of Massachusetts, and Messrs. Mason and Randolph, of Virginia. The president of the convention transmitted it to Congress, with a resolution stating how the proposed Federal Government should be put in operation, and an explanatory letter. Congress, on the 28th of September, 1787, directed the Constitution so framed, with the resolutions and letter concerning the same, to "be transmitted to the several Legislatures in order to be submitted to a convention of delegates chosen in each State by the people thereof, in conformity to the resolves of the convention."

On the 4th of March, 1789, the day which had been fixed for commencing the operations of Government under the new Constitution, it had been ratified by the conventions chosen in each State to consider it, as follows: Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 9, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 25, 1788; and New York, July 26, 1788.

The President informed Congress, on the 28th of January, 1790, that North Carolina had ratified the Constitution November 21, 1789; and he informed Congress on the 1st of June, 1790, that Rhode Island had ratified the Constitution May 29, 1790. Vermont, in convention, ratified the Constitution January 10, 1791, and was, by an act of Congress approved February 18, 1791, "received and admitted into this Union as a new and entire member of the United States."

Note 2: The part of this Clause relating to the mode of apportionment of representatives among the several States has been affected by Section 2 of Amendment XIV, and as to taxes on incomes without apportionment by Amendment XVI.

Note 3: This Clause has been affected by Clause 1 of Amendment XVII.

Note 4: This Clause has been affected by Clause 2 of Amendment XVIII.

Note 5: This Clause has been affected by Amendment XX.

Note 6: This Clause has been affected by Amendment XXVII.

Note 7: This Clause has been affected by Amendment XVI.

Note 8: This Clause has been superseded by Amendment XII.

Note 9: This Clause has been affected by Amendment XXV.

Note 10: This Clause has been affected by Amendment XI.

Note 11: This Clause has been affected by Amendment XIII.

The Amendments to the U.S. Constitution

The Bill of Rights (Amendments 1-10)

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III

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

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

Amendment VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX

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

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The Amendments to the U.S. Constitution, cont'd.

Amendment XI [Ratified February 7, 1795]

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

Amendment XII [Ratified July 27, 1804]

The Electors shall meet in their respective states, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. [And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President—]* (Superseded by section 3 of the Twentieth Amendment.) The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

Amendment XIII [Ratified December 6, 1865]

Section 1 Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2 Congress shall have power to enforce this article by appropriate legislation.

Amendment XIV [Ratified July 9, 1868]

Section 1 All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2 Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3 No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

The Amendments to the U.S. Constitution, cont'd.

Section 4 The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5 The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Amendment XV [Ratified February 3, 1870]

Section 1 The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2 The Congress shall have power to enforce this article by appropriate legislation.

Amendment XVI [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.

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

Amendment XVIII [Ratified January 16, 1919, Repealed December 5, 1933 by Amendment 21]

Section 1 After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2 The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Section 3 This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Amendment XIX [Ratified August 18, 1920]

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have power to enforce this article by appropriate legislation.

Amendment XX [Ratified January 23, 1933]

Section 1 The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Section 2 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.

Section 3 If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein

The Amendments to the U.S. Constitution, cont'd.

neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Section 4 The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Section 5 Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Section 6 This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of threefourths of the several States within seven years from the date of its submission.

Amendment XXI [Ratified December 5, 1933]

Section 1 The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2 The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

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

Amendment XXII [Ratified February 27, 1951]

Section 1 No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2 This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three fourths of the several States within seven years from the date of its submission to the States by the Congress.

Amendment XXIII [Ratified March 29, 1961]

Section 1 The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct: A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

Section 2 The Congress shall have power to enforce this article by appropriate legislation.

Amendment XXIV [Ratified January 23, 1964]

Section 1 The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

Section 2 The Congress shall have power to enforce this article by appropriate legislation.

Amendment XXV [Ratified February 10, 1967]

Section 1 In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

The Amendments to the U.S. Constitution, cont'd.

Section 2 Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Section 3 Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Section 4 Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President. Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

Amendment XXVI [Ratified July 1, 1971]

Section 1 The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Section 2 The Congress shall have power to enforce this article by appropriate legislation.

Amendment XXVII [Ratified May 7, 1992]

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

Federalist Papers: “Federalist No. 51”

The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments

From the *New York Packet*

Friday, February 8, 1788

by Alexander Hamilton or James Madison

To the People of the State of New York:

TO WHAT expedient, then, shall we finally resort, for maintaining in practice the necessary partition of power among the several departments, as laid down in the Constitution? The only answer that can be given is, that as all these exterior provisions are found to be inadequate, the defect must be supplied, by so contriving the interior structure of the government as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places. Without presuming to undertake a full development of this important idea, I will hazard a few general observations, which may perhaps place it in a clearer light, and enable us to form a more correct judgment of the principles and structure of the government planned by the convention. In order to lay a due foundation for that separate and distinct exercise of the different powers of government, which to a certain extent is admitted on all hands to be essential to the preservation of liberty, it is evident that each department should have a will of its own; and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of the others. Were this principle rigorously adhered to, it would require that all the appointments for the supreme executive, legislative, and judiciary magistracies should be drawn from the same fountain of authority, the people, through channels having no communication whatever with one another. Perhaps such a plan of constructing the several departments would be less difficult in practice than it may in contemplation appear. Some difficulties, however, and some additional expense would attend the execution of it. Some deviations, therefore, from the principle must be admitted. In the constitution of the judiciary department in particular, it might be inexpedient to insist rigorously on the principle: first, because peculiar qualifications being essential in the members, the primary consideration ought to be to select that mode of choice which best secures these qualifications; secondly, because the permanent tenure by which the appointments are held in that department, must soon destroy all sense of dependence on the authority conferring them. It is equally evident, that the members of each department should be as little dependent as possible on those of the others, for the emoluments annexed to their offices. Were the executive magistrate, or the judges, not independent of the legislature in this particular, their independence in every other would be merely nominal. But the great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions. This policy of supplying, by opposite and rival interests, the defect of better motives, might be traced through the whole system of human affairs, private as well as public. We see it particularly displayed in all the subordinate distributions of power, where the constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other that the private interest of every individual may be a sentinel over the public rights. These inventions of prudence cannot be less requisite in the distribution of the supreme powers of the State. But it is not possible to give to each department an equal power of self-defense. In republican government, the legislative authority necessarily predominates. The remedy for this inconveniency is to divide the legislature into different branches; and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit. It may even be necessary to guard against dangerous encroachments by still further precautions. As the weight of the legislative authority requires that it should be thus divided, the weakness of the executive may require, on the other hand, that it should be fortified. An

absolute negative on the legislature appears, at first view, to be the natural defense with which the executive magistrate should be armed. But perhaps it would be neither altogether safe nor alone sufficient. On ordinary occasions it might not be exerted with the requisite firmness, and on extraordinary occasions it might be perfidiously abused. May not this defect of an absolute negative be supplied by some qualified connection between this weaker department and the weaker branch of the stronger department, by which the latter may be led to support the constitutional rights of the former, without being too much detached from the rights of its own department? If the principles on which these observations are founded be just, as I persuade myself they are, and they be applied as a criterion to the several State constitutions, and to the federal Constitution it will be found that if the latter does not perfectly correspond with them, the former are infinitely less able to bear such a test. There are, moreover, two considerations particularly applicable to the federal system of America, which place that system in a very interesting point of view. First. In a single republic, all the power surrendered by the people is submitted to the administration of a single government; and the usurpations are guarded against by a division of the government into distinct and separate departments. In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself. Second. It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure. There are but two methods of providing against this evil: the one by creating a will in the community independent of the majority that is, of the society itself; the other, by comprehending in the society so many separate descriptions of citizens as will render an unjust combination of a majority of the whole very improbable, if not impracticable. The first method prevails in all governments possessing an hereditary or self-appointed authority. This, at best, is but a precarious security; because a power independent of the society may as well espouse the unjust views of the major, as the rightful interests of the minor party, and may possibly be turned against both parties. The second method will be exemplified in the federal republic of the United States. Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests, and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority. In a free government the security for civil rights must be the same as that for religious rights. It consists in the one case in the multiplicity of interests, and in the other in the multiplicity of sects. The degree of security in both cases will depend on the number of interests and sects; and this may be presumed to depend on the extent of country and number of people comprehended under the same government. This view of the subject must particularly recommend a proper federal system to all the sincere and considerate friends of republican government, since it shows that in exact proportion as the territory of the Union may be formed into more circumscribed Confederacies, or States oppressive combinations of a majority will be facilitated: the best security, under the republican forms, for the rights of every class of citizens, will be diminished: and consequently the stability and independence of some member of the government, the only other security, must be proportionately increased. Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit. In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature, where the weaker individual is not secured against the violence of the stronger; and as, in the latter state, even the stronger individuals are prompted, by the uncertainty of their condition, to submit to a government which may protect the weak as well as themselves; so, in the former state, will the more powerful factions or parties be gradually induced, by a like motive, to wish for a government which will protect all parties, the weaker as well as the more powerful. It can be little doubted that if the State of Rhode Island was separated from the Confederacy and left to itself, the insecurity of rights under the popular form of government within such narrow limits would be displayed by such reiterated oppressions of factious majorities that some power altogether independent of the people would soon be called for by the voice of the very factions whose misrule had proved the necessity of it. In the extended republic of the United States, and among the great variety of interests, parties, and sects which it embraces, a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good; whilst there being thus less danger to a minor from the will of a major party, there must be less pretext, also, to provide for the security of the former, by introducing into the government a will not dependent on the latter, or, in other words, a will independent of the society itself. It is no less certain than it is important, notwithstanding the contrary opinions which have been entertained, that the larger the society, provided it lie within a practical sphere, the more duly capable it will be of self-government. And happily for the REPUBLICAN CAUSE, the practicable sphere may be carried to a very great extent, by a judicious modification and mixture of the FEDERAL PRINCIPLE.