

Constitution USA under Scrutiny Common Sense and Comparison Jewish Law

Moshe Siselsender Book 90

Jewish Law [1] considers all persons all under the law. “ Mishpot ACHAS Yihyeh lochem kager koezrach yiyeh ki ani hashem elokaychem ” Leviticos

24:22 “ONE LAW SHALL BE FOR YOU AND FOR THE STRANGER THE STRANGER SHOULD BE TREATED EQUALLY AS YOU. FOR I AM God YOUR GOD ” Leviticos 24:22

This law is DIVINE can never be changed by ANY one.

Contrast the Constitution of the USA .

[2]The 5th Amendment “ **all**

persons possess a right to life liberty and one's property “

[3] However , prior to the Civil War the Supreme Court ruled that non whites were not citizens – Dred Scott v. Sandford [19how]393[1857] The Dred Scott decision . Therefore they were not covered by the 5th Amendment.

[4] Prior to the election of Lincoln in 1860 an amendment to the Constitution was passed by 2/3 of the Senate and 2/3 of the House of Representatives that would shield all existing institutions –
including slavery from

ever being changed by
Constitutional
Amendments. This was
supposed to be the 13th
Amendment.

The election of Abraham Lincoln and the immediate secession of the Southern states put a stop to the adoption of this pro slavery amendment. 500,000 MEN LOST THEIR LIVES AND HUNDREDS OF THOUSANDS WERE WOUNDED IN THE

NEXT FOUR YEARS OF BLOODSHED IN THE ENSUING CIVIL WAR.

[5] In 1865 the 13th Amendment was passed forbidding slavery. Thus instead of the 13th Amendment shielding slavery ;it was forbidden.

[6] The 14th Amendment is almost a duplication of the 5TH Amendment ; but applied to States. It emphasized that the 5th Amendment included everyone colored as well as whites. All persons meant blacks as well as whites. The 15th Amendment that followed are intended to remove all indicia of slavery from non whites. Blacks are granted to

vote to be eligible to write contracts and be witnesses in a court of law be part of a jury.

[7] However it took another 100 years 1964 to enforce these laws . These laws were consistently under mined by whites in the South. President Lyndon Johnson had to send in the National Guard to enforce anti segregation in some Southern Communities.

[8] Not only blacks were persona non grata in the South; but also Jews. KKK and Southern justice framed Jews and prostituted and perverted the legal system to commit murder of Jews. In 1915 a Jew by the name Leon Frank was

accused that he murdered one of his female employees. Although the evidence overwhelmingly found him innocent, he was convicted of murder. His sentence was commuted by the governor. However Leon Frank was dragged out of a local jail and hung by the KKK. His murder was to be a signal that Jews were not welcome in the South.

[9] In 1964 President Johnson enforced equal voting rights for blacks. Martin Luther Jr. ,as well as, many other blacks and whites who championed and fought for black civil rights were murdered by the KKK.

Herbert Hoover the director of the CIA used all the legal tools at his possession to put a stop to the KKK.

[10] The Supreme Court in their ruling of permitting abortions interpreted the 5th and 14th amendments “ All persons have the right to life liberty and the right to their property” that

THE WORD PERSONS DOES NOT COVER A FETUS

The supreme Court before 1860 ruled the ALL PERSONS did not cover blacks since they are not citizens. If Blacks are declared not citizens or not persons I s immaterial. The results are the same .

They have no protection of the constitution.

What is to stop some Supreme Court in the future of interpreting that

PERSONS DOES NOT COVER JEWS
MULIMS BUDHISTS ATHEISTS
CATHOLICS?

What is to stop some time in the future for an Amendment to the Constitution to revoke the First Amendment of freedom of religion, freedom of speech and the press?

All it takes is for 2/3 of the Senate 2/3 of the House of Representatives to propose such an Amendment. $\frac{3}{4}$ of the States

must ratify such an Amendment. There does not exist the barrier of a Presidential veto. The President's signature is not necessary. That is what the Supreme Court ruled.

For the last 200 years since the Constitution was drafted, there has been as many interpretations of the Constitution by the Supreme Court as there were different Supreme Court Justices. Once there existed a majority of one justice , a new face was plastered on to the Constitution. The rights of minorities blacks women religions other the dominant White Protestant were hostage to the prejudiced world and

societal viewpoint of the majority array and makeup of the Supreme Court.

In these democratic USA it was legal for a period of time in the early 1900s to forcefully sterilize certain individuals whom the majority declared were inferior mental stock.

When the Nazis defendants were tried in Nuremburg for the murder 6 million Jews and one million Jewish children tens or hundred thousands Gypsies millions of Russians the Nazis replied that the Americans did the same with the mental inferior. The Americans considered them not persons not covered by the 5th and 14th

Amendments. So too, the Nazis considered all whom they killed as non persons.

Thus even with the constitution in full force, it all boils down who is sitting in the Supreme Court? Who is doing the interpreting?

In the contingency a President appoints and the Senate and House of Representatives confirm Anti Semites anti Blacks anti Catholics as Supreme Court Justices then the

USA WILL NO LONGER BE THE LAND OF THE FREE FOR JEWS BLACKS CATHOLICS.

LET US REMEMBER THAT THE FIRST CATHOLIC PRESIDENT KENNEDY WAS MURDERED. HIS BROTHER RUNNING FOR PRESIDENT WAS MURDERED.

Lincoln who freed the blacks was murdered. For the last 150 years since the civil war blacks still do not enjoy the same economic benefits or equality as whites.

The laws are just . However people INTERPRET THE LAWS TO WHAT SUITS THEM POLITICALLY.

IT IS NECESSARY TO BE ETERNALLY VIGILANT.

Otherwise, the USA can become an other Nazi Germany!!! !

That is an other reason that Jews must have the State of Israel as a sanctuary. Even the great democracy the USA contains the seeds within the constitution of turning into a totalitarian state. Just like Germany did after Hitler was democratically elected in the Weimar Republic in 1933.

Talmud Bavali Sanhedrin 37a “ each individual should state because of me was the world created. ”

“All humans are descendants of Adam and Eve . No human can say my origin is

more noble than yours. God created all humans equal.”

Rambam Maimonides Sanhedrin 12 :3 elucidates further and states “God created all mankind to originate from one person Adam/Eve . No two humans have the same markings DNA finger prints . Therefore each human can honestly claim because of me was the world created. One who saves any human regardless of gender race religion national origin is considered as though he saved the entire world.”

Rambam further states in Sanhedrin 18:6 “ no one is believed to confess that

he /she is guilty of a capital crime. Such an admission can possibly be made by One wanting to commit suicide . By falsely confessing they would be executed. Radvaz Ibid makes the following comment. “ life belongs only to God . God lends life to us. We are not legally the owners of our life. Therefore, we have no legal right to commit suicide.”

The supreme value attached to human life is rooted in Leviticus 18:5 “ and you shall observe my Chukim Umishpotim ritual laws that transcend human understanding and rational laws followed by all civilized societies in order

that you shall live through such observance.” Jewish law uses this verse to establish the principle “ preservation and saving of all human life

- regardless of gender religion race color national origin –

trumps laws of all civilizations.

Thus JEWISH LAW IS THE YARDSTICK THAT ALL HUMANS SINCE CREATION OF THE WORLD HAVE EMULATED. SOME MORE SOME LESS.

IT WOULD BE WORTHWHILE THAT THE USA CONSTITUTION ADOPT THE ABOVE BASIC PRINCIPLE. ADOPT THESE

PRINCIPLES THAT CAN NEVER BE
ABROGATED.

THESE PRINCIPLES UNDER GOD ARE
ETERNAL FREEDOM AND JUSTICE FOR
ALL .

“Koezrach mikem yihyeh hager hager
itchem veohavto lo komocho ki garim
hoyisem beeretz mitzraim ani hashem
elokaychem ”Liviticos 19:34

“Like a citizen shall be for you the
stranger . And you shall love him like
yourself . For you were strangers in the
land of Egypt. I am God your
God” Leviticos 19:34

“Losasu avel bamishpot” Leviticos19:35

“Do not do evil falsehood while administering justice- pass off evil in the garment of justice . Do not be a wolf in sheep’s garment ”Leviticos 19:35

Where an action under this section is brought in a district court of the United States, process may be served in the judicial district where the case is brought or any other judicial district of the United States where the defendant may be found, resides, has an agent, or transacts business.

§ 4105. ATTORNEYS' FEES.

In any action brought in a domestic court to enforce a foreign judgment for defamation, including any such action removed from State court to Federal court, the domestic court shall, absent exceptional circumstances, allow the party proposing recognition or enforcement of the judgment a reasonable attorney's fee if such party prevails in the action on a ground specified in section 4102(a), (b), or (c).

TITLE 42 — UNITED STATES CODE

§ 1981. EQUAL RIGHTS UNDER THE LAW.

(a) Statement of equal rights All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

(b) "Make and enforce contracts" defined For purposes of this section, the term "make and enforce contracts" includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

(c) Protection against impairment The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.

§ 1983. CIVIL ACTION FOR DEPRIVATION OF RIGHTS.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

§ 1988. PROCEEDINGS IN VINDICATION OF CIVIL RIGHTS; ATTORNEY'S FEES.

(a) [Not Reproduced.]

(b) Attorney's Fees

In any action or proceeding to enforce a provision of sections 1981, 1981a, 1982,

1983, 1985, and 1986 of this title, title IX of Public Law 92-318, the Religious Freedom Restoration Act of 1993, the Religious Land Use and Institutionalized Persons Act of 2000, or title VI of the Civil Rights Act of 1964, or section 40302 of the Violence Against Women Act of 1994, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity such officer shall not be held liable for any costs, including attorney's fees, unless such action was clearly in excess of such officer's jurisdiction.

(c) Expert Fees

In awarding an attorney's fee under subsection (b) in any action or proceeding to enforce a provision of section 1981 or 1981a of this title, the court, in its discretion, may include expert fees as part of the attorney's fees.

[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 the State for which he shall be chosen.

[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 chuse 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 to Law.

SECTION 4. [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 chusing 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.

SECTION 5. [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 Behaviour, 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

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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.

SECTION 6. [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 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. [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 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 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 (Sunday 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.

SECTION 8. [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;

[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;

[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 Rights to their respective Writings and Discoveries;

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

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

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

[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;

[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.

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SECTION 9. [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 of Enumeration herein before directed to be taken.

[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.

SECTION 10. [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 Controul 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.

ARTICLE II

SECTION 1. [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:

[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.

[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 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.

[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.

[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.

[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, the Same shall devolve on the Vice President, 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.

[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.

[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. [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 Offenses against the United States, except in Cases of Impeachment.

[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.

[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.

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. [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

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE
CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY
CONGRESS, AND RATIFIED BY THE SEVERAL STATES, PURSUANT TO
THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

AMENDMENT I [1791]

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 [1791]

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 [1791]

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

AMENDMENT IV [1791]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, 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 [1791]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, 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 [1791]

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 [1791]

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 [1791]

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

AMENDMENT IX [1791]

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

AMENDMENT X [1791]

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.

AMENDMENT XI [1798]

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 [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 —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 [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 [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.

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 of 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 [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 [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 [1913]

[1] 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.

[2] 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 [1919]

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

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 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 [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 [1992]

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

III. CONSTITUTIONAL PROTECTION OF INDIVIDUAL RIGHTS

A. Original Textual Provisions

The original text of the Constitution contained very few provisions protecting individual rights. This probably occurred for two reasons. First, some of the framers believed that they had created a central government with limited powers that would not have the authority to violate individual rights. Others of the framers feared that any list of enumerated rights might be incomplete and might later be interpreted to deny rights not listed.

Those few provisions protecting individual rights include Article I, Section 9, which provides that “the privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion, the public safety may require it.” The writ of habeas corpus was a common law procedure that allowed the courts to order the release of persons unlawfully imprisoned or detained. Although it has been an important protection in some cases, the courts have given Congress great leeway in limiting the use of the writ.

Article I, Sections 9 and 10, prohibit *ex post facto* laws (punishing conduct that was not illegal at the time it was performed) and bills of attainder (singling out individuals or groups for punishment). Article III, Section 2, provides for the right to trial by jury in all criminal cases, and requires that the trial be held in the state where the crime was committed.

The “privileges and immunities clause” contained in Article IV, Section 2, provides, “The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens of several states.” This limits the ability of states to favor their own citizens and discriminate against out-of-state citizens with respect to certain fundamental rights.

Although these provisions, and a few others can be important in some cases, the main protections of individual liberties comes not in the Constitution itself, but the first ten amendments, known as the Bill of Rights.

B. The Bill of Rights

During the ratification process, several state legislatures expressed concern over the lack of protection of individual liberties. In response, the first Congress passed twelve amendments to the Constitution, ten of these which were ratified by the states and became known collectively as the Bill of Rights.

Before describing the protections of the Bill of Rights, it is important to note that they originally were interpreted as restrictions only on the power of the federal government, and not the power of the states. It was not until the twentieth century that the Supreme Court began to hold some of these rights enforceable against the states.

1. A Brief Summary of the Bill of Rights

The First Amendment protects freedom of religion and freedom of speech and of the press. It also protects the right of peaceful assembly and to petition the government.

The Second Amendment protects the right to keep and bear arms, for the purpose of maintaining a militia. Although there has been debate as to whether this protects an individual's right to own firearms, the Supreme Court has held that it applies only to the states' right to have an armed militia.

The Third Amendment prohibits the quartering of troops in any house during peacetime and allows it in times of war only in a lawful manner.

The Fourth Amendment protects against unreasonable searches and seizure and requires a search warrant before a search can take place.

The Fifth Amendment requires indictment by a grand jury before a person can be charged with a serious crime. It also prohibits a person from being tried twice for the same crime (double jeopardy) or from being forced to be a witness against himself (self-incrimination). It protects against deprivation of life liberty or property without due process of law (due process clause). It also prohibits the taking of private property without just compensation.

The Sixth Amendment provides important rights for criminal defendants, including the right to a speedy and public trial, to a trial by an impartial and local jury, to be informed of the charges against him, to be confronted by witnesses against him, to compulsory process for obtaining witnesses, and to have a lawyer.

The Seventh Amendment preserves the right to a trial by jury in most civil cases.

The Eighth Amendment prohibits excessive bail, excessive fines, and cruel and unusual punishments.

The Ninth Amendment makes clear that the enumeration of some rights shall not be interpreted to deny other rights retained by the people (although it does not indicate what those rights may be).

The Tenth Amendment reserves all powers not given to the federal government, or prohibited to the states by the Constitution, to the states or to the people.

2. Application of the Bill of Rights

The rights contained in the Bill of Rights were originally construed to apply only against the federal government and not against state or local governments. The rights of individuals were protected from state intrusion only by the state constitutions themselves.

This changed after the American Civil War, with the passage of three amendments intended to protect the rights of the newly freed slaves. The Thirteenth Amendment prohibited slavery, and the Fifteenth Amendment protected the right to vote from discrimination based on race. The Fourteenth Amendment contained a number of important provisions.

Section one of the Fourteenth Amendment first made clear that all persons born or naturalized in the United States are citizens both of the United States and the States where they reside. Then it provided three restrictions on the states. The states may not (1) "abridge the privileges or immunities of citizens of the United States," nor (2) "deprive any person of life liberty or property without due process of law," nor (3) deny any person "the equal protection of the laws."

The first attempt to apply the Bill of Rights to the States relied on using the “privileges and immunities” clause. It was claimed that the protections of the Bill of Rights were the most basic privileges and immunities of citizenship. The Supreme Court rejected this view in the *Slaughterhouse Cases* of 1873, giving a very narrow interpretation of this clause that has never been overruled.

Instead, the court has adopted a “selective incorporation” approach under the due process clause. Starting in 1897 the Court has held that certain protections of the Bill of Rights are so fundamental, that when a state denies them it denies “due process of law” guaranteed by the Fourteenth Amendment. Although some justices have taken the position that the entire Bill of Rights should be deemed incorporated, the Court has consistently held that each right must be examined separately to see if it is so fundamental that it should be incorporated.

Nonetheless, most of the important rights contained in the Bill of Rights have been incorporated under this theory. Only a few have been held not to apply, such as the right to bear arms, the right to a grand jury indictment, and the right to a jury trial in civil cases. It was not until the 1960’s, however, that some important rights were incorporated, such as the right to an attorney in a criminal case and the protection against self-incrimination.

3. The State Action Doctrine

Although the coverage of most of the Bill of Rights has been expanded to the actions of state and local governments, it does not generally apply to private conduct. With some exceptions, private persons and organizations do not have to comply with the Constitution. For example, while a public university cannot unduly restrict the free speech rights of its students, private universities are not subject to this rule. This “state action” doctrine applies not only to the Bill of Rights, but also to the due process and equal protection clauses of the Fourteenth Amendment. The Supreme Court held in 1883 in the *Civil Rights Cases*, that the language of the Fourteenth Amendment which begins “no state shall...,” requires this result. Although the doctrine is called the “state action” doctrine, it actually refers to any governmental conduct. Local governments are considered arms of the states for this purpose.

There are a few situations in which the Constitution does apply to private conduct, such as situations in which a private entity exercises powers usually exercised by the State, for example, holding a primary election, or running a prison or a city. The law also applies to private parties when they conspire with public officials to violate constitutional rights, or when they otherwise form a joint enterprise with the government. Private conduct usually is not held to constitute state action when the government merely licenses, regulates, or partially funds a private organization.

Congress does have the power, under other constitutional provisions, to pass statutes that apply constitutional standards to private conduct. Under the Thirteenth Amendment, which abolished slavery, Congress has the power to prohibit private racial discrimination (using its power to abolish “all badges and incidences of slavery”). Congress also has used its power to regulate interstate commerce to prohibit discrimination in employment on the basis of race, sex, religion, national origin, age and handicap.

Article Five of the United States Constitution

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Article V of the United States Constitution

Article Five of the United States Constitution describes the process whereby the Constitution, the nation's frame of government, may be altered. Altering the Constitution consists of proposing an amendment or amendments and subsequent ratification. Amendments may be proposed either by the Congress with a two-thirds vote in both the House of Representatives and the Senate or by a convention of states called for by two-thirds of the state legislatures.^[1] To become part of the Constitution, an amendment must be ratified by either—as determined by Congress—the legislatures of three-quarters of the states or state ratifying conventions in three-quarters of the states.^[2] The vote of each state (to either ratify or reject a proposed amendment) carries equal weight, regardless of a state's population or length of time in the Union.

Additionally, Article V temporarily shielded certain clauses in Article I from being amended. The first clause in Section 9, which prevented Congress from passing any law that would restrict the importation of slaves prior to 1808, and the fourth clause in that same section, a declaration that direct taxes must be apportioned according to state populations, were explicitly shielded from Constitutional amendment prior to 1808. It also shields the first clause of Article I, Section 3, which provides for equal representation of the states in the Senate, from being amended, though not absolutely.



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Text

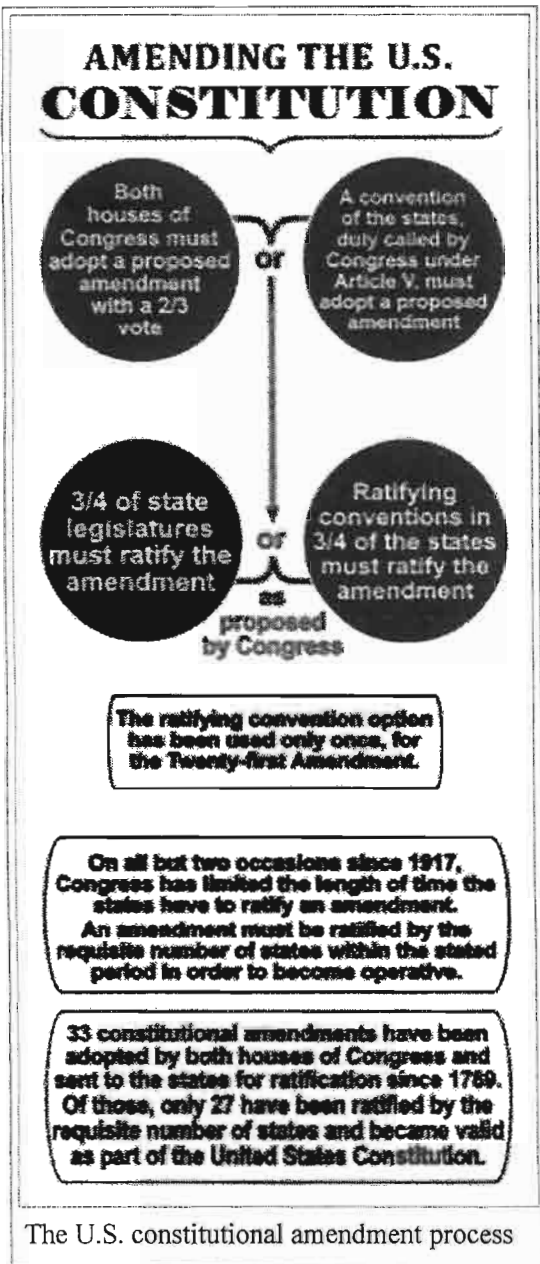
The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents 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.^[3]

Procedure for amending the Constitution

Thirty-three amendments to the United States Constitution have been approved by the Congress and sent to the states for ratification. Twenty-seven of these amendments have been ratified and are now part of the Constitution. The first ten amendments were adopted and ratified simultaneously and are known collectively as the Bill of Rights. Six amendments adopted by Congress and sent to the states have not been ratified by the required number of states and are not part of the Constitution. Four of these amendments are still technically open and pending, one is closed and has failed by its own terms, and one is closed and has failed by the terms of the resolution proposing it. All totaled, approximately 11,539 measures to amend the Constitution have been proposed in Congress since 1789 (through December 16, 2014).^[4]

Proposing amendments

Article V provides two methods for amending the nation's frame of government. The first method authorizes Congress, "whenever two-thirds of both houses shall deem it necessary" (a two-thirds of those members present—assuming that a quorum exists at the time that the vote is cast—and not



necessarily a two-thirds vote of the entire membership elected and serving in the two houses of Congress), to propose Constitutional amendments. The second method requires Congress, "on the application of the legislatures of two-thirds of the several states" (presently 34), to "call a convention for proposing amendments".^[5]

When the 1st Congress considered a series of constitutional amendments, it was suggested that the two houses first adopt a resolution indicating that they deemed amendments necessary. This procedure was not used. Instead, both the House and the Senate proceeded directly to consideration of a joint resolution, thereby implying that both bodies deemed amendments to be necessary. Also, when initially proposed by James Madison, the amendments were designed to be interwoven into the relevant sections of the original document.^[6] Instead, they were approved by Congress and sent to the states for ratification as supplemental additions (codicils) appended to it. Both these precedents have been followed ever since.^[7]

Regarding the amendment process crafted during the 1787 Constitutional Convention, Madison, in *The Federalist No. 43*, wrote:

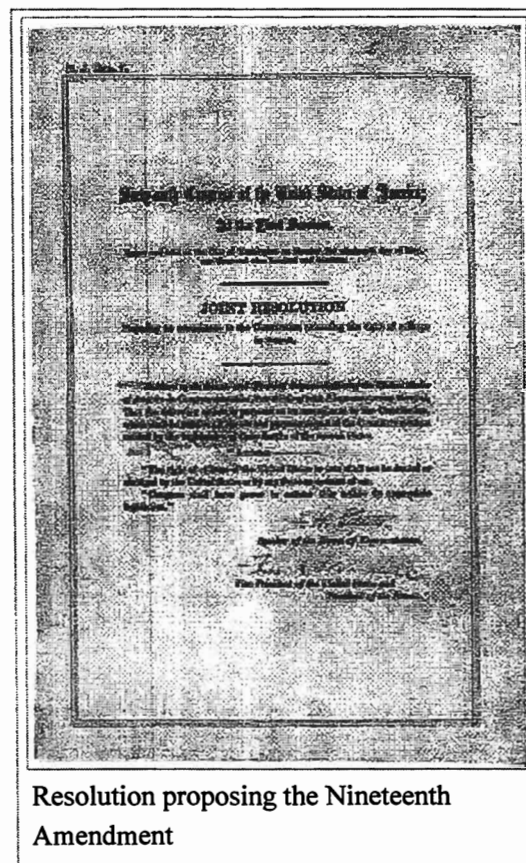
It guards equally against that extreme facility which would render the Constitution too mutable; and that extreme difficulty which might perpetuate its discovered faults. It moreover equally enables the General and the State Governments to originate the amendment of errors, as they may be pointed out by the experience on one side, or on the other.^{[6][8]}

Each time the amendment process has been initiated since 1789, the first method has been used. All 33 amendments submitted to the states for ratification originated in the Congress. The second method, the convention option, which Alexander Hamilton (writing in *The Federalist No. 85*) believed would serve as a barrier "against the encroachments of the national authority",^[8] has yet to be successfully invoked, although not for lack of activity in the states.

Three times in the 20th century, concerted efforts were undertaken by proponents of particular amendments to secure the number of applications necessary to summon an Article V Convention. These included conventions to consider amendments to (1) provide for popular election of U.S. Senators; (2)

permit the states to include factors other than equality of population in drawing state legislative district boundaries; and (3) to propose an amendment requiring the U.S. budget to be balanced under most circumstances. The campaign for a popularly elected Senate is frequently credited with "prodding" the Senate to join the House of Representatives in proposing what became the Seventeenth Amendment to the states in 1912, while the latter two campaigns came very close to meeting the two-thirds threshold in the 1960s and 1980s, respectively.^{[5][9]}

Once approved by Congress, the joint resolution proposing a constitutional amendment does not require Presidential approval before it goes out to the states. While Article I Section 7 provides that all federal legislation must, before becoming Law, be presented to the President for his or her signature or veto, Article V provides no such requirement for constitutional amendments approved by Congress, or by a federal convention. Thus the president has no official function in the process.^{[a][b]} In *Hollingsworth v. Virginia* (1798), the Supreme Court affirmed that it is not necessary to place constitutional amendments before the President for approval or veto.^[7]



Resolution proposing the Nineteenth Amendment

Ratification of amendments

After being officially proposed, either by Congress or a national convention of the states, a constitutional amendment must then be ratified by three-fourths of the states. Congress is authorized to choose whether a proposed amendment will be sent to the state legislatures or to state ratifying conventions for ratification. Amendments ratified by the states under either procedure are indistinguishable and have equal force as part of the Constitution. Of the 33 amendments submitted to the states for ratification, the state convention method has been used for only one, the Twenty-first Amendment, which became part of the Constitution in 1933.^[5] This was also one of only four times that Congress has placed the mode of ratification in the body of an amendment rather than in accompanying legislation; the others being the Eighteenth, Twentieth, and Twenty-second Amendments.^[12] In *United States v. Sprague* (1931), the Supreme Court affirmed the authority of Congress to decide how each individual constitutional amendment will be ratified in accordance with the options provided in Article V and the equal validity of amendments properly ratified in either fashion. The Court had earlier, in *Hawke v. Smith* (1920), ruled the ratification of the proposed Nineteenth Amendment (which Congress had sent to the state legislatures for ratification) by the Legislature of Ohio could not be referred to the electors (voters) of the state, and that the Ohio Constitution, in requiring such a referendum, was inconsistent with the U.S. Constitution.

An amendment becomes an operative part of the Constitution when it is ratified by the necessary number of states, rather than on the later date when its ratification is certified.^[13] No further action by Congress or anyone is required. On three occasions, Congress has, after being informed that an

acknowledges receipt and maintains custody of them. The OFR retains these documents until an amendment is adopted or fails, and then transfers the records to the National Archives for preservation.

A proposed amendment becomes part of the Constitution as soon as it is ratified by three-fourths of the States (38 of 50 States). When the OFR verifies that it has received the required number of authenticated ratification documents, it drafts a formal proclamation for the Archivist to certify that the amendment is valid and has become part of the Constitution. This certification is published in the Federal Register and U.S. Statutes at Large and serves as official notice to the Congress and to the Nation that the amendment process has been completed.

In a few instances, States have sent official documents to NARA to record the rejection of an amendment or the rescission of a prior ratification. The Archivist does not make any substantive determinations as to the validity of State ratification actions, but it has been established that the Archivist's certification of the facial legal sufficiency of ratification documents is final and conclusive.

In recent history, the signing of the certification has become a ceremonial function attended by various dignitaries, which may include the President. President Johnson signed the certifications for the 24th and 25th Amendments as a witness, and President Nixon similarly witnessed the certification of the 26th Amendment along with three young scholars. On May 18, 1992, the Archivist performed the duties of the certifying official for the first time to recognize the ratification of the 27th Amendment, and the Director of the Federal Register signed the certification as a witness.

Links to Constitutional Amendment Information in the Treasures of Congress Exhibit

- The Bill of Rights (Amendments 1-10 and 27)
- The 13th Amendment (Prohibiting Slavery)
- The 17th Amendment (Direct Election of Senators)
- The 19th Amendment (Granting Women the Right to Vote)

The U.S. National Archives and Records Administration

1-86-NARA-NARA or 1-866-272-6272



Constitutional Amendment Process

The authority to amend the Constitution of the United States is derived from Article V of the Constitution. After Congress proposes an amendment, the Archivist of the United States, who heads the National Archives and Records Administration (NARA), is charged with responsibility for administering the ratification process under the provisions of 1 U.S.C. 106b. The Archivist has delegated many of the ministerial duties associated with this function to the Director of the Federal Register. Neither Article V of the Constitution nor section 106b describe the ratification process in detail. The Archivist and the Director of the Federal Register follow procedures and customs established by the Secretary of State, who performed these duties until 1950, and the Administrator of General Services, who served in this capacity until NARA assumed responsibility as an independent agency in 1985.

The Constitution provides that an amendment may be proposed either by the Congress with a two-thirds majority vote in both the House of Representatives and the Senate or by a constitutional convention called for by two-thirds of the State legislatures. None of the 27 amendments to the Constitution have been proposed by constitutional convention. The Congress proposes an amendment in the form of a joint resolution. Since the President does not have a constitutional role in the amendment process, the joint resolution does not go to the White House for signature or approval. The original document is forwarded directly to NARA's Office of the Federal Register (OFR) for processing and publication. The OFR adds legislative history notes to the joint resolution and publishes it in slip law format. The OFR also assembles an information package for the States which includes formal "red-line" copies of the joint resolution, copies of the joint resolution in slip law format, and the statutory procedure for ratification under 1 U.S.C. 106b.

The Archivist submits the proposed amendment to the States for their consideration by sending a letter of notification to each Governor along with the informational material prepared by the OFR. The Governors then formally submit the amendment to their State legislatures or the state calls for a convention, depending on what Congress has specified. In the past, some State legislatures have not waited to receive official notice before taking action on a proposed amendment. When a State ratifies a proposed amendment, it sends the Archivist an original or certified copy of the State action, which is immediately conveyed to the Director of the Federal Register. The OFR examines ratification documents for facial legal sufficiency and an authenticating signature. If the documents are found to be in good order, the Director

amendment has reached the ratification threshold, adopted a resolution declaring the process successfully completed.

^[c]^[14] Such actions, while perhaps important for political reasons, are, constitutionally speaking, unnecessary.

Presently, the Archivist of the United States is charged with responsibility for administering the ratification process under the provisions of 1 U.S. Code § 106b

(<https://www.law.cornell.edu/uscode/text/1/106b>). The Archivist officially notifies the states, by a registered letter to each state's Governor, that an amendment has been proposed.^[15] Each Governor then formally submits the amendment to their state's legislature (or ratifying convention). When a state ratifies a proposed amendment, it sends the Archivist an original or certified copy of the state's action. Upon receiving the necessary number of state ratifications, it is the duty of the Archivist to issue a certificate proclaiming a particular amendment duly ratified and part of the Constitution.^[d] The amendment and its certificate of ratification are then published in the *Federal Register* and *United States Statutes at Large*. This serves as official notice to Congress and to the nation that the ratification process has been successfully completed.^[1]

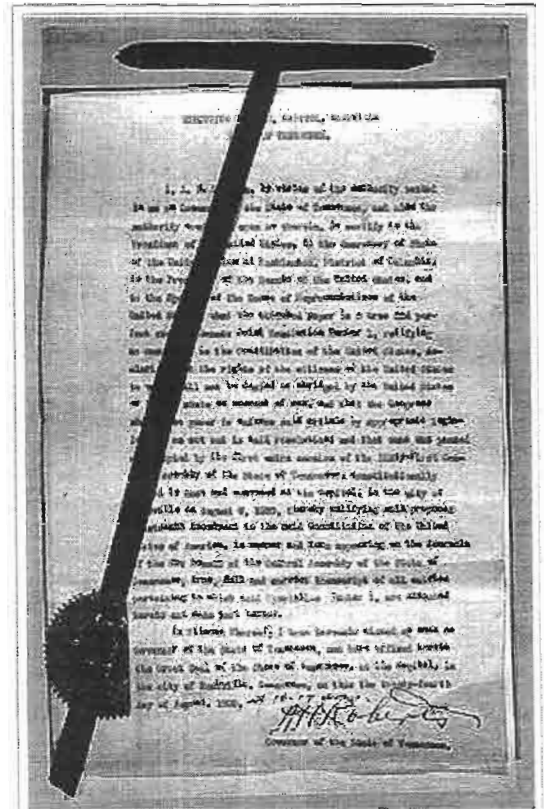
Ratification deadline and extension

The Constitution is silent on the issue of whether or not Congress may limit the length of time that the states have to ratify constitutional amendments sent for their consideration. It is also silent on the issue of whether or not Congress, once it has sent an amendment that includes a ratification deadline to the states for their consideration, can extend that deadline.

Deadlines

The practice of limiting the time available to the states to ratify proposed amendments began in 1917 with the Eighteenth Amendment. All amendments proposed since then, with the exception of the Nineteenth Amendment and the (still pending) Child Labor Amendment, have included a deadline, either in the body of the proposed amendment, or in the joint resolution transmitting it to the states.^[e] The ratification deadline "clock" begins running on the day final action is completed in Congress. An amendment may be ratified at any time after final congressional action, even if the states have not yet been officially notified.^[15]

In *Dillon v. Gloss* (1921), the Supreme Court upheld Congress's power to prescribe time limitations for state ratifications and intimated that proposals which were clearly out of date were no longer open for ratification. Granting that it found nothing express in Article V relating to time constraints, the Court yet allowed that it found intimated in the amending process a "strongly suggest[ive]" argument that



Tennessee certificate of ratification of the nineteenth Amendment; with this ratification, the amendment became valid as a part of the Constitution

proposed amendments are not open to ratification for all time or by States acting at widely separate times.^[17] The court subsequently, in *Coleman v. Miller* (1939), modified its opinion considerably. In that case, related to the proposed Child Labor Amendment, it held that the question of timeliness of ratification is a political and non-justiciable one, leaving the issue to Congress's discretion. It would appear that the length of time elapsing between proposal and ratification is irrelevant to the validity of the amendment. Based upon this precedent, the Archivist of the United States proclaimed the Twenty-seventh Amendment as having been ratified when it surpassed the "three fourths of the several states" plateau for becoming a part of the Constitution. Declared ratified on May 7, 1992, it had been submitted to the states for ratification on September 25, 1789, an unprecedented time period of 202 years, 7 months and 12 days.^[15]

Extensions

Whether once it has prescribed a ratification period Congress may extend the period without necessitating action by already-ratified States embroiled Congress, the states, and the courts in argument with respect to the proposed Equal Rights Amendment (Sent to the states on March 22, 1972 with a seven-year ratification time limit attached). In 1978 Congress, by simple majority vote in both houses, extended the original deadline by 3 years, 3 months and 8 days (through June 30, 1982).

The amendment's proponents argued that the fixing of a time limit and the extending of it were powers committed exclusively to Congress under the political question doctrine and that in any event Congress had power to extend. It was argued that inasmuch as the fixing of a reasonable time was within Congress' power and that Congress could fix the time either in advance or at some later point, based upon its evaluation of the social and other bases of the necessities of the amendment, Congress did not do violence to the Constitution when, once having fixed the time, it subsequently extended the time. Proponents recognized that if the time limit was fixed in the text of the amendment Congress could not alter it because the time limit as well as the substantive provisions of the proposal had been subject to ratification by a number of States, making it unalterable by Congress except through the amending process again. Opponents argued that Congress, having by a two-thirds vote sent the amendment and its authorizing resolution to the states, had put the matter beyond changing by passage of a simple resolution, that states had either acted upon the entire package or at least that they had or could have acted affirmatively upon the promise of Congress that if the amendment had not been ratified within the prescribed period it would expire and their assent would not be compelled for longer than they had intended.^[17]

In 1981, the United States District Court for the District of Idaho, however, found that Congress did not have the authority to extend the deadline, even when only contained within the proposing joint resolution's resolving clause.^[18] The Supreme Court had decided to take up the case, bypassing the Court of Appeals,^[19] but before they could hear the case, the extended period granted by Congress had been exhausted without the necessary number of states, thus rendering the case moot.^[20]

Exclusive means for amending the Constitution

According to constitutional theorist and scholar Lawrence G. Sager, some commentators have seriously questioned whether Article V is the exclusive means of amending the Constitution, or whether there are routes to amendment, including some routes in which the Constitution could be unconsciously or unwittingly amended in a period of sustained political activity on the part of a mobilized national constituency.^[21] For example, Akhil Amar argues that the Constitution may be constitutionally amended outside of Article V. He rejects the notion that Article V excludes other modes of constitutional change, arguing instead that the procedure provided for in Article V is simply the exclusive method the government may use to amend the Constitution. He asserts that Article V nowhere prevents the People themselves, acting apart from ordinary Government, from exercising their legal right to alter or abolish Government via the proper legal procedures.^[22] Bruce Ackerman argues that the Constitution can be amended by something he calls a "structural amendment" whereby the people alter their Constitutional order via succeeding elections.^[23] Similarly, Sanford Levinson believes that Constitutional amendments have been made outside of Article V and as such it is not exclusive.^[24]

Other scholars disagree with Amar, Ackerman, and Levinson. Some argue that the Constitution itself provides no mechanism for the American people to adopt constitutional amendments independently of Article V.^[25] Darren Patrick Guerra has argued that Article V is a vital part of the American Constitutional tradition and he defends Article V against modern critiques that Article V is either too difficult, too undemocratic, or too formal. Instead he argues that Article V provides a clear and stable way of amending the document that is explicit, authentic, and the exclusive means of amendment; it promotes wisdom and justice through enhancing deliberation and prudence; and its process complements federalism and separation of powers that are key features of the Constitution. He argues that Article V remains the most clear and powerful way to register the sovereign desires of the American public with regard to alterations of their fundamental law. In the end, Article V is an essential bulwark to maintaining a written Constitution that secures the rights of the people against both elites and themselves.^[26]

In his farewell address, President George Washington said:^[27]

If in the opinion of the People the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

This statement by Washington has become controversial, and scholars disagree about whether it still describes the proper constitutional order in the United States.^[28] Scholars who dismiss Washington's position often argue that the Constitution itself was adopted without following the procedures in the Articles of Confederation,^[29] while Constitutional attorney Michael Farris disagrees, saying the Convention was a product of the States' residual power, and the amendment in adoption process was legal, having received the unanimous assent of the States' legislatures.^[30]

See also

- List of amendments to the United States Constitution
- List of proposed amendments to the United States Constitution
- List of state applications for an Article V Convention
- List of Rescissions of Article V Convention Applications

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Notes

- On March 2, 1861 the 36th Congress gave final approval to proposed constitutional amendment designed to shield "domestic institutions" (which at the time included slavery) from the constitutional amendment process and from abolition or interference by Congress. The following day, on his last full day in office, President Buchanan, took the unprecedented step of signing it. Submitted to the state legislatures for ratification without a time limit for ratification attached, the proposal, commonly known as the Corwin Amendment, is still technically pending before the states.^[10]
- On January 31, 1865, the 38th Congress gave final approval to what would become the Thirteenth Amendment, which abolished slavery and involuntary servitude, except as punishment for a crime. The following day, the amendment was presented to the President Lincoln pursuant to the constitution's Presentment Clause, and signed. On February 7, Congress passed a resolution affirming that the Presidential signature was unnecessary.^[11]
- 1868 regarding the Fourteenth Amendment, 1870 regarding the Fifteenth Amendment, and 1992 regarding the Twenty-seventh Amendment.
- In recent history, the signing of the certificate of ratification has become a ceremonial function attended by various dignitaries. President Johnson signed the certifications for the Twenty-fourth Amendment and Twenty-fifth Amendment as a witness. When the Administrator of General Services, Robert Kunzig, certified the adoption of the Twenty-sixth Amendment on July 5, 1971, President Nixon along with Julianne Jones, Joseph W. Loyd, Jr., and Paul Larimer of the "Young Americans in Concert" signed as witnesses. On May 18, 1992, the Archivist of the United States, Don W. Wilson, certified that the Twenty-seventh Amendment had been ratified, and the Director of the Federal Register, Martha Girard, signed the certification as a witness.^{[1][16]}
- Congress incorporated the ratification deadline for the Eighteenth, Twentieth, Twenty-first, and Twenty-second Amendments into the body of the amendment, so these amendments' deadlines are now part of the Constitution. The failed District of Columbia Voting Rights Amendment also contained a ratification deadline clause. Congress incorporated the ratification deadline for the Twenty-third, Twenty-fourth, Twenty-fifth and Twenty-sixth Amendments into the joint resolutions transmitting them to the state legislatures in order to avoid including extraneous language in the Constitution. This practice was also followed for the failed Equal Rights Amendment.

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Britain adopts broader anti-Semitism definition to fight hate crimes against Jews

Effort designed to make it harder to evade repercussions through lack of clarity on what anti-Semitism is, Downing Street says

BY TIMES OF ISRAEL STAFF | December 12, 2016, 5:00 am |

Britain will be among the first countries worldwide to adopt an international definition of anti-Semitism in efforts to fight hate crimes and incitement targeting Jews which have been on the rise this past year.

On Monday, in pre-released excerpts of a speech she is set to give, British Prime Minister Theresa May said "it means there will be one definition of anti-Semitism – in essence, language or behaviour that displays hatred towards Jews because they are Jews – and anyone guilty of that will be called out on it," according to Reuters.

"It is unacceptable that there is anti-Semitism in this country. It is even worse that incidents are reportedly on the rise. As a government we are making a real difference and adopting this measure is a groundbreaking step," her speech reads. It was not yet clear when she would give the address.

The definition adopted by Britain was formulated earlier this year by the International Holocaust Remembrance Alliance and is designed to make it harder to evade repercussions for discriminatory or prejudiced behavior because of a lack of clarity or differing opinions on what constitutes anti-Semitism.

The intention was to "ensure that culprits will not be able to get away with being anti-Semitic because the term is ill-defined, or because different organizations or bodies have different interpretations of it," read a statement by Downing Street, cited by the Guardian..

The IHRA definition reads: "Anti-Semitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of anti-Semitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities."

According to the definition, "manifestations might include the targeting of the state of Israel, conceived as a Jewish collectivity. However, criticism of Israel similar to that leveled against any other country cannot be regarded as anti-Semitic."

It was adopted in May as a non-legally binding working definition by the group's 31 member countries, which include Britain, the US, Germany, Canada, France, Spain and Israel.

Earlier this year, a watchdog group noted an 11 percent increase in anti-Semitic incidents in Britain in the first six months of 2016.

The Community Security Trust, or CST, registered 557 anti-Semitic incidents in that period, compared to 500 in the first half of 2015.

The 557-incident total is the second-highest CST has ever recorded in the January-June period of any year, after 629 incidents recorded in the first half of 2009.

The first half of 2016 also saw a polarizing debate in the United Kingdom about whether the country should exit the European Union, a decision favored by 52% of voters in a national referendum that took place on June 23.

According to CST and police figures, Britain saw a considerable increase in xenophobic incidents following the vote, where immigration was a central theme. Jews, however, were not singled out for such attacks after the vote on the British exit, or Brexit.

Last week, a British court found a man guilty of waging an anti-Semitic internet campaign against Jewish lawmaker Luciana Berger.

In October, a British parliamentary committee of inquiry upheld claims that the UK's Labour party's leadership was failing to confront seriously anti-Semitism in its ranks.

The report followed intense scrutiny of Labour in the British media, that have reported on dozens of cases involving hate speech against Jews or Israel by party members, including senior lawmakers loyal to its leader Jeremy Corbyn.

Raised persistently by leaders of British Jewry following the election last year of Corbyn to lead Labour, the accusation was reaffirmed in the publication of the scathing report entitled "Antisemitism in the UK" compiled by the Home Affairs Select Committee of the House of Commons, the lower house of the British Parliament.

Corbyn's "lack of consistent leadership on this issue, and his reluctance to separate antisemitism from other forms of racism, has created what some have referred to as a 'safe space' for those with vile attitudes towards Jewish people," read the withering report, which was agreed upon unanimously by the 11 lawmakers who wrote it. Five of them were from Labour.

The document was the first major independent probe into anti-Semitism in Labour under Corbyn – a problem that the Board of Deputies of British Jews and other community organs have accused Corbyn of downplaying and even whitewashing in internal party probes.

At the time, the Home Affairs report called on Labour to adopt a definition of anti-Semitism, take stricter action against those caught making anti-Semitic statements and train members on the difference between criticizing Israel and disseminating anti-Semitism, among other steps.

On Monday, a spokeswoman for Corbyn said he and the Labour party agreed with the IHRA's definition.

"Jeremy Corbyn and the Labour party share the view that language or behaviour that displays hatred towards Jews is anti-Semitism, and is as repugnant and unacceptable as any other form of racism," the spokeswoman said.

JTA contributed to this report.