

Congress has now included time limits to proposed amendments, especially because the 27th Amendment took 203 years to ratify. Since 1917, Congress has added a seven-year time limit to each proposed amendment, and this contributed to the failure of changes like the Equal Rights Amendment.

OUTLINE OF THE CONSTITUTION

BASICS OF THE CONSTITUTION

- Preamble: The goals of this new government
- Articles: Seven major pieces, each describing the government and its duties
- Sections: Organizing portions of the articles
- Clauses: Paragraphs within the sections

There were 55 leaders who worked on the document, 39 who signed it, and 3 who stayed through the Convention but refused to sign: Edmund Randolph and George Mason of Virginia, along with Elbridge Gerry of Massachusetts.

Following are the five political themes of the Constitution:

1. Representative government/indirect democracy
2. Federalism
3. Separations of powers
4. Checks and balances
5. Civil liberties via limited government

OUTLINE AND KEY TERMS OF THE CONSTITUTION (NOT INCLUDING ITEMS REMOVED/AMENDED)

THE PREAMBLE

The basic goals of the new government of 1787:

- “form a more perfect Union”
- “establish Justice”
- “insure domestic Tranquility”
- “provide for the common defence”
- “promote the general Welfare”
- “secure the Blessings of Liberty”

ARTICLE 1: LEGISLATIVE BRANCH

Sections 1, 2, 3: The Organization of House and Senate

- There is a bicameral legislature (two bodies: House and Senate).
- House members serve for two years and must be 25 years old and seven-year citizens, and reside in their states.
- The Speaker of the House is the leader.
- New apportionment or reapportionment of districts and seats occurs after the 10-year census.
- The House has the power to impeach/bring charges against the president.
- Senate members serve for six years and must be 30 years old and nine-year citizens, and reside in their state.
- The President of the Senate is the vice president of the United States.
- The President “*Pro Tempore*” (*pro tem*) serves if the vice president is not available.
- The Senate has the power to remove those impeached by the House.

Sections 4, 5, 6, 7: Workings of the Congress

- An annual session of Congress is required.
- Congress has power over members, attendance, and qualifications.
- Congress must keep a journal (*The Congressional Record*).
- Congress sets its own salary (limited by the 27th Amendment).
- Members are immune from arrest during a session.
- Members may not hold double political offices.
- Revenue bills must initiate in the House.
- Removal powers require a two-thirds vote.
- Congress can override a veto with a two-thirds vote.

Section 8: The Powers of Congress “Delegated,” “Enumerated,” “Implied,” “Necessary and Proper”

- There are 18 clauses that give specific lists of federal powers.
- Key examples:
 - Clause 2: “To borrow Money...”
 - Clause 3: “To regulate Commerce...” (the Commerce Clause)
 - Clause 9: “To constitute Tribunals...” (create lower federal courts)
 - Clause 11: “To declare war...”
 - Clause 18: “To make all Laws which shall be necessary and proper...”
(the Elastic Clause)

Section 9: "Powers Denied to Congress" (the "mini Bill of Rights")

- *Writ of Habeas Corpus* may not be suspended unless "the public Safety may require it."
- No "Bills of Attainder" may be created.
- No "*ex post facto*" laws may be created.
- No tax may be levied on exports from states.
- No titles of nobility can be given.

ARTICLE 2: THE EXECUTIVE BRANCH AND THE ELECTORAL COLLEGE*Section 1*

- The president's term will be four years, and the Electoral College will select the president.
- The president must be 35 years old, a U.S. resident for 14 years, and a "natural" (native-born) citizen "together" with the vice president.
- Electors will be "equal to the whole Number of Senators and Representatives to which the State may be entitled."
- Presidents will receive salaries set by Congress.
- Note: Much of this section has been amended by the 12th and 25th Amendments.

Sections 2, 3: Powers and Duties of the President

- Is commander in chief.
- Makes/negotiates treaties.
- Nominates ambassadors and judges.
- Works with "Heads of Departments" (Cabinet).
- Fills "Recess" appointments, lasting until the end of Congress's next session.
- Gives the "State of the Union" message.
- May adjourn Congress if they can't agree on a time.
- Receives foreign ambassadors.
- Takes "Care that the Laws be faithfully executed".
- Commissions "all Officers" of the military.

Section 4: Removal of the President, Vice President, or "all civil Officers of the United States"

- Impeachment (House)
- Removal trial (Senate)
- Upon "Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors"

ARTICLE 3: JUDICIAL BRANCH

Section 1, 2: The Federal Courts

- There will be one Supreme Court, and inferior courts if created by Congress.
- There will be life terms for federal judges, whose salaries are set by Congress.
- The jurisdiction of the Supreme Court will be cases under the Constitution.
- The Supreme Court has original jurisdiction in certain cases and appellate jurisdiction in cases from lower courts.

Section 3: Treason

- Treason “shall consist only in levying War against them (United States), adhering to their Enemies, giving them Aid and Comfort.”
- Two witnesses are required in open court.
- Congress can set the punishment if convicted.
- No punishment extends to families (no “Corruption of Blood”).

ARTICLE 4: STATES

Sections 1, 2, 3, 4: “Relation among the States”

- There is “Full Faith and Credit,” meaning states give credit to laws from other states that might be different from their own laws.
- Provides for extradition of criminals back to from another state seeking the criminal.
- New states can be created by Congress but only with the permission of the state from which the land came.
- Congress remains in charge of federal properties.
- All states are guaranteed a “Republican Form of Government” and protection provided by Congress or the president.

ARTICLE 5: AMENDMENTS

- Congress proposes amendments with a two-thirds vote.
- State legislatures ratify with a three-fourths vote.
- or
- Two-thirds of state legislatures call for Congress to create conventions.
- Three-fourths of state conventions vote to ratify.

ARTICLE 6: STATUS OF THE CONSTITUTION*Supremacy Clause*

- The Constitution, laws of the United States, and treaties, “shall be the supreme Law of the Land...”
- Leaders are bound by oath to support the Constitution.
- No religious tests can be given as a condition or qualification for a government office.

ARTICLE 7: RATIFICATION

- Nine of 13 states were needed to ratify the Constitution for it to take effect.
- This was completed in 1788.

AMENDMENTS AND KEY TERMS

Amendment and Topics	Key Issues/Terms (see Chapter 15)	Related Legal Issues/Terms (see Chapter 15)
1) Religion Speech Press Assembly and Petition	Establishment Clause versus Free-Exercise Clause Abridging? Just Speech? Peaceably, Redress	Which to Emphasize? • <i>Lemon Test</i> • <i>Clear-and-Present-Danger Test</i> • <i>Pure Speech</i> • <i>Symbolic Speech</i> • <i>Community Standards</i> • <i>Incitement</i> • <i>Prior Restraint</i> • <i>Libel and Slander</i>
2) Right to Bear Arms	Regulated Militia versus Rights of the People	Which to Emphasize?
3) Quartering of Troops		
4) Search and Seizure	Unreasonable search versus Probable Cause	<i>Exclusionary Rule, Good Faith Exception, Privacy?, Reasonable?</i>
5) Indictments, Double Jeopardy, Just Compensation	Compelled, Due Process	<i>Self-Incrimination, Eminent Domain</i>
6) Speedy and Public Trial, Confront Witness, Counsel	Speedy, Impartial Jury	What Levels of Courts?
7) Jury in Civil Trials		
8) Excessive Bail Cruel and Unusual Punishments		Death Penalty?
9) Rights Retained by the People		Privacy and How Much?

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| 10) Rights to States | Reserved Powers | How Broad? When in Conflict with the 14th? |
| 11) Rules for Lawsuits against States | | One State Cannot Be Sued in Another State |
| 12) Separate Votes for President and Vice President | Reforms of the Electoral College | Corrections for the Elections of 1796 and 1800 |
| 13) Abolition of Slavery | | |
| 14) Citizenship State Limits Due Process Equal Protection (See chapter 15 for further details.) | Application to States | <i>Incorporation</i>
"Congress shall have the power to enforce, by appropriate legislation..." |
| 15) Voting Rights and Race | No Denial on Account of Race, Color... | |
| 16) Federal Income Tax | | |
| 17) Direct Election of Senators | | |
| 18) Prohibition | | In Effect Only 1920 to 1933 |
| 19) Women's Vote | | Suffrage |
| 20) New Start for Federal Terms | Congress = January 3
President = January 20 | |
| 21) Repeal of Prohibition | | Left to Local Votes for Alcohol Purchases |
| 22) Two-Term Limit for the President | Two Full Terms or Maximum of 10 Years | |
| 23) Number of Votes for president for Washington, D.C. | No Fewer Electoral Votes than the Least Populated State (= 3) | |
| 24) No Poll Tax | | Jim Crow Laws |
| 25) Succession | If the President Dies or Becomes Incapacitated, the Vice President Must Assume the Presidency; If There Is No Vice President, Then the President Must Appoint One and Congress Must Confirm the Appointment. | Procedures for Succession?
What Constitutes the State Where the President Can No Longer Serve? |
| 26) Voting Rights to Age 18 | | |
| 27) Acceptance of Pay Raises | Congress Should Wait Until after the Next Election. | Did Congress Avoid This by Tying Their Pay Increases to Social Security COLAs?
Cost-of-Living Adjustments |