

Chapter 4: The United States Constitution

1. Introduction



One February morning in 1971, Dwight Lopez headed off to his classes at Central High School in Columbus, Ohio. Things had been tense at school lately. Students were in shock over the recent shooting of two African American students by whites. Many were also upset about the school's cancellation of Black History Week celebrations. These events would help to provoke a major disturbance at school that day.

Like many American cities in the early 1970s, Columbus was experiencing social upheaval. Growing opposition to the Vietnam War was fueling large antiwar demonstrations. At the same time, racial tensions were high. Despite the gains made by the civil rights movement in the 1960s, most African Americans had yet to experience

any real social or economic progress. Many blacks blamed racism for their lack of advancement. In the Columbus public schools, racial conflict was increasing.



On that day in February, tensions boiled over and violence erupted in the school cafeteria. School property was destroyed, and 75 students were given ten-day suspensions from school. One of those students was Dwight Lopez. He claimed that he was an innocent bystander who just happened to be in the cafeteria when the incident occurred. But the school refused to hear his appeal.

In response, Lopez took the school district to court, claiming his constitutional right to due process of law had been violated. **Due process**, guaranteed by the Fifth and Fourteenth amendments to the Constitution, requires that those accused of a crime be given a fair hearing and the chance to defend themselves. But this right had never been applied in schools.

The Ohio courts decided in favor of Lopez and eight other students who joined in the case. But the school district appealed the decision to the U.S. Supreme Court. This case, now called *Goss v. Lopez*, would help to define the rights of students—and therefore *your* rights—under the Constitution.

2. Elements of the Constitution

The Constitution provides the basic framework for American government. It also guarantees the rights and freedoms that we, as Americans, sometimes take for granted. Cases like *Goss v. Lopez* help to clarify those rights. They also underscore the role played by the Constitution in our democratic system.

The Constitution is a three-part document, consisting of the Preamble, the articles, and the amendments. Although it may seem complicated, the Constitution is actually a relatively brief and straightforward document. It consists of just over 7,000 words, making it shorter than the sports section in most newspapers. Adopted as the “law of the land” in 1788, it is the oldest written constitution still in use anywhere in the world.

Speaking of Politics

due process

The principle that no person can be deprived of life, liberty, or property without fair legal procedures and safeguards.

republican government

A representative political system in which authority comes from the people and is exercised by elected officials.

checks and balances

A system in which each branch of government can limit the power of the other branches.

federalism

A system of government in which power is divided between a central government and smaller regional governments.

independent judiciary

A system of judges and courts that is separate from other branches of government. Such a judiciary is not controlled by politicians and can exercise independent judgment.

strict construction

A literal approach to interpreting the Constitution, using the exact words of the document.

loose construction

A flexible approach to interpreting the Constitution, taking into account current conditions in society.

judicial review

The power of the courts to declare laws and executive acts unconstitutional. The Supreme Court is the ultimate judge of whether a government action conforms to the Constitution.

For more than two centuries, we have relied on the Constitution as the basis for our political system. It serves as both a practical outline for government and a symbol of our national way of life. Learning about the Constitution not only helps us understand the rights and freedoms we enjoy as Americans, but also gives us tools to defend those freedoms.

The Preamble Sets the Purpose

The opening paragraph, the Preamble, is a single, long sentence that defines the broad purposes of the [republican government](#) created by the Constitution. It begins with the phrase “We the people,” signifying that power and authority in our system of government come from the people, not the states.

The Preamble goes on to set various goals for the nation under the Constitution. These goals are expressed in a series of key phrases.

Form a more perfect union. The framers of the Constitution wanted to ensure cooperation among the states, and between the states and the national government.

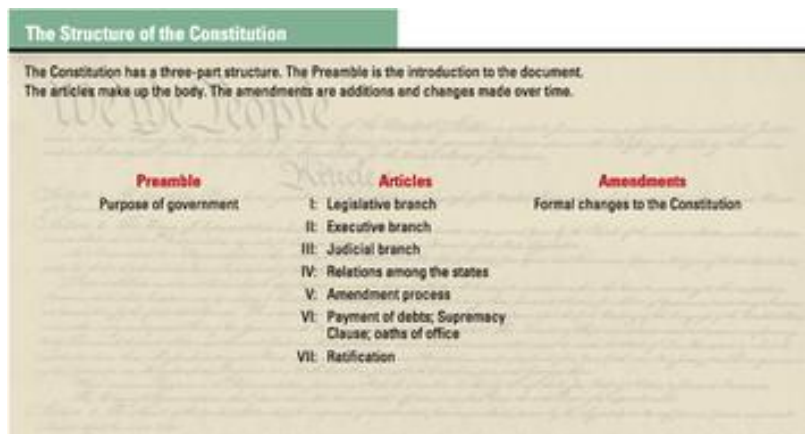
Establish justice. The framers hoped to create a system of government based on fair laws that apply equally to all people.

Ensure domestic tranquility. The framers wanted government to ensure peace and order.

Provide for the common defense. The framers wanted the government to protect the nation against foreign enemies.

Promote the general welfare. The framers hoped the government would ensure the well-being of the citizens.

Secure the blessings of liberty to ourselves and our posterity. The framers hoped to guarantee freedom for Americans, then and in the future.



The Articles Establish Our National Government

The main body of the Constitution consists of seven articles. These seven articles are further divided into sections and clauses. The first three articles establish the three branches of government—legislative, executive, and judicial—and define their powers. These articles lay out the basic structure of the national government.

The four remaining articles of the Constitution cover various subjects, including relations among the states, the supremacy of national law, and the amendment process.

Article I Establishes the Legislative Branch

The first article sets up Congress as the lawmaking body in government. It describes the two chambers of Congress, the Senate and the House of Representatives, as well as the election, terms, and qualifications of their members. It also sets guidelines for rules and procedures in each chamber. This is the longest article in the Constitution, reflecting the founders' belief in the importance of the legislature in a representative democracy.

Section 8 of Article I lays out some of the main powers granted to Congress. These powers are both enumerated and implied. [Enumerated powers](#) are those that are specifically listed in the Constitution, such as the power to collect taxes, coin money, and declare war.

[Implied powers](#) are those that the legislature can claim as part of its lawmaking responsibility. This claim to implied power stems from Clause 18 of Section 8, which says that Congress can "make all laws which shall be necessary and proper" for carrying out its duties. This [Necessary and Proper Clause](#) is also known as the [Elastic Clause](#), since it can be "stretched" to cover a variety of issues and circumstances.

Powers of the Three Branches of Government

The Constitution establishes a government of three branches, with separate powers for each branch. By dividing power, the framers hoped to ensure that no single branch would become too powerful.



Legislative

- Makes the laws
- Appropriates funds for laws and programs
- Approves treaties and executive appointments
- Establishes federal courts



Executive

- Enforces the laws
- Acts as commander in chief of military
- Negotiates treaties
- Appoints federal judges and other top officials



Judicial

- Interprets the laws
- Reviews lower-court decisions
- Judges whether laws and executive actions are constitutional
- Rules on cases between states

Section 9 of Article I lists powers denied to Congress. Among these denied powers are the suspension of [habeas corpus](#) and the granting of titles of nobility. Habeas corpus is the right of accused persons to be brought before a judge to hear the charges against them. The ban on titles of nobility reflects the principle that "all men are created equal," as expressed in the Declaration of Independence.

Article II Establishes the Executive Branch

The executive branch is led by the president and vice president. As it does for members of Congress, the

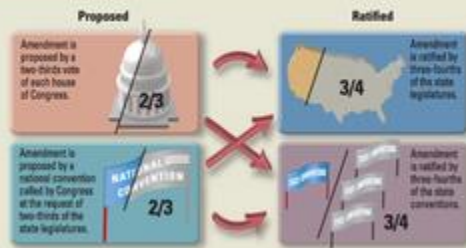
Constitution describes the election, terms of office, and qualifications of these executive officers. It also defines the powers of the president, which include the power to command the armed forces, to make treaties, and to appoint other executive officials.

Article III Establishes the Judicial Branch

Article III creates the Supreme Court, the highest court in the land, while leaving Congress to create the lower courts. It defines the [jurisdiction](#) of the federal courts, specifying the types of cases that can be tried. It also guarantees the right to trial by jury in criminal cases and defines the crime of treason.

Amending the Constitution

The Constitution spells out four methods of approving amendments. All amendments except one have been proposed by Congress and ratified by the state legislatures. The one exception was the Twenty-first Amendment, which repealed the Eighteenth Amendment and ended the national ban on alcohol, known as prohibition.



Article IV Concerns Relations Among the States

Article IV has four sections, which make the following key points:

Full faith and credit. Each state must honor the laws and court decisions of other states.

Treatment of citizens. No state may discriminate against the residents of another state. It must treat them as it treats its own residents. States must return suspected criminals to the states in which they are wanted.

New states and territories. Only Congress can authorize the creation of new states. It also has power over territories and other jurisdictions of the United States.

Protection of states. The national government guarantees each state a republican form of government. It also promises to protect states from outside attack and, if requested, to help states put down internal rebellions.

Article V Describes the Amendment Process

The framers understood that it might be necessary to make changes to the Constitution from time to time. Article V spells out the ways such amendments can be proposed and ratified.

Article VI Makes the Constitution the Supreme Law of the Land

Article VI covers several topics. It states that the national government agrees to repay all of the debts that were incurred under the Articles of Confederation. This was critical to ensure support for the new government.

It also states that the Constitution is the "supreme Law of the Land." This section, known as the [Supremacy Clause](#), means that federal law supersedes all state and local laws. When the laws conflict, federal law reigns supreme.

In addition, it stipulates that all federal and state officials must take an oath swearing their allegiance to the Constitution. Also, no religious standard can be imposed on any official as a qualification for holding office.

Article VII Explains the Ratification Process

Article VII stipulates that the Constitution would not take effect until ratified by at least nine states. Although the Constitution was signed by the framers on September 17, 1787, ratification did not occur until the following year.

3. Amending the Constitution



"The way I see it, the Constitution cuts both ways. The First Amendment gives you the right to say what you want, but the Second Amendment gives me the right to shoot you for it."

The framers never meant for the Constitution to provide a complete and detailed blueprint for government. As Alexander Hamilton noted in 1788, "Constitutions should consist only of general provisions: The reason is, that they must necessarily be permanent, and that they cannot calculate for the possible changes of things."

In general, the framers made broad statements and left it to political leaders to work out many of the specific details of governing. They also built in an amendment process, in Article V, that would allow for formal changes to the Constitution. They hoped that this flexibility would allow the Constitution and the government to endure.

The Amendment Process Is Not Easy

Although the framers understood that amendments might be necessary, they did not want such changes to be taken lightly. For that reason, they made the amendment process difficult. More than 11,000 amendments have been introduced in Congress over the years, but only 33 have been sent on to the states for ratification, and of these, only 27 have been ratified.

Article V lays out a two-step amendment process. Amendments can be proposed and ratified in four ways, as shown in this diagram. However, one method has been used almost exclusively over the years.

In this typical method, an amendment is first proposed by a two-thirds vote in both houses of Congress. The proposed amendment is then sent to the states, where it must be ratified by the legislatures of at least three-fourths of the states.

Only one amendment, the Twenty-first, which ended prohibition, was ratified in a different way. It was approved not by state legislatures, but by special conventions in three-fourths of the states.

The president has no formal role in the amendment process. The chief executive can support or oppose a proposed amendment, but has no power to approve or block its passage. That power lies exclusively with Congress and the states.

Only one provision of the Constitution—the equal representation of states in the Senate—is not open to amendment. This point is made explicit in Article V: "no State, without its Consent, shall be deprived of its equal Suffrage in the Senate." This prohibition was meant to ensure that all states—even the smallest and least populated—would always have two seats in the Senate. This was a key compromise worked out during the writing of the Constitution.

Some critics contend that the equal-representation provision is undemocratic. They point out that today over half the U.S. population lives in just nine states: California, Texas, New York, Florida, Illinois, Pennsylvania, Ohio, Michigan, and Georgia. Yet just 18 out of 100 senators represent this half of the population.

The First Ten Amendments: The Bill of Rights

The first ten amendments to the Constitution—also known as the Bill of Rights—were proposed by Congress in 1789 and ratified by the states in 1791. The rights listed in the Bill of Rights outline the freedoms guaranteed to the people and the states.

First Amendment: Basic freedoms. Guarantees five basic freedoms: religion, speech, press, assembly, and petition.

Second Amendment: Right to bear arms. Protects the right to bear arms and form state militias. The national and state governments, however, claim the right to regulate firearms.

Third Amendment: Quartering of soldiers. Bans quartering of troops in private homes during peacetime. This was a key concern in the 1700s but has little relevance today.

Fourth Amendment: Search and seizure. Prevents unreasonable search and seizure. Police and other authorities have no right to search or seize property or people without just cause.

Fifth Amendment: Rights of the accused. Outlines the right to due process of law and other legal protections. This amendment covers various rights of people accused of crimes. It also covers **eminent domain**, which prevents the government from taking over private property without just or fair compensation.

Sixth Amendment: Right to a fair trial. Guarantees the right to public and speedy trial by a jury in criminal cases. The accused also has other rights such as to call witnesses and to be represented by an attorney.

Seventh Amendment: Civil trials. Guarantees the right to jury trial in civil cases. A **civil case**, such as a lawsuit, is one that does not involve criminal conduct.

Eighth Amendment: Bail and punishment. Bans excessive bail and punishment. The courts may not impose unreasonable bail, fines, or cruel and unusual punishment.

Ninth Amendment: Rights retained by the people. Guarantees other rights not listed in the Constitution or Bill of Rights.

Tenth Amendment: States' rights. Reserves powers for the states and the people that are not specifically given to the national government.

Two Early Amendments Strengthened the New Federal Government

The remaining amendments came about because of a widely recognized problem, or as the result of a reform movement, or both. The first of these, the Eleventh Amendment, adopted in 1795, protected states from lawsuits by citizens of other states or foreign countries. It was adopted after Georgia lost a Supreme Court case involving a suit brought by a South Carolina resident.

The Twelfth Amendment, ratified in 1804, changed voting procedures in the Electoral College to separate the vote for president and vice president. This became necessary after the 1800 election resulted in an Electoral College tie.

Three Civil War–Era Amendments Extended Rights to African Americans

The Thirteenth Amendment made President Lincoln's emancipation of slaves the law of the land. The Fourteenth Amendment overturned the Supreme Court's Dred Scott decision—which had denied citizenship to African Americans—by making all people born in the United States citizens with equal rights and protections. The Fifteenth Amendment was passed to protect the voting rights of freedmen during Reconstruction.

Four Progressive-Era Amendments Dealt with Social and Political Reforms

The Progressive period of the early 1900s saw the ratification of four amendments, all designed to promote social and political reform. The Sixteenth Amendment allowed Congress to establish an income tax. Today the income tax is the main source of revenue for the federal government.

The Seventeenth Amendment provided for the direct election of senators. Previously, senators were elected by state legislatures. The Nineteenth Amendment extended voting rights to women.

The Eighteenth Amendment instituted prohibition, banning the sale of alcohol. The Twenty-first Amendment later repealed prohibition.

Amendments to the Constitution After the Bill of Rights, 1798–1992

Amendments Defining the Powers of Government	Amendments Affecting the Election or Tenure of Officeholders	Amendments Reflecting Changing Social Values	Amendments Expanding Voting Rights
Eleventh Amendment (1795) Limited federal court jurisdiction over lawsuits involving states	Twelfth Amendment (1804) Required separate electoral college ballots for president and vice president	Thirteenth Amendment (1865) Banned slavery and involuntary servitude	Fifteenth Amendment (1870) Extended voting rights to male citizens of all races
Fourteenth Amendment (1868) Defined citizenship and prohibited states from denying due process, equal protection, and other basic rights to citizens	Seventeenth Amendment (1913) Called for the direct election of senators by voters		Nineteenth Amendment (1920) Extended the right to vote to women
Sixteenth Amendment (1913) Gave Congress the power to levy and collect taxes on incomes	Twentieth Amendment (1933) Changed the date when the president, vice president, and members of Congress take office	Eighteenth Amendment (1919) Empowered the federal government to prohibit the sale of alcohol	
	Twenty-second Amendment (1951) Limited the president to two full terms or no more than ten years in office	Twenty-first Amendment (1933) Repealed the highly unpopular 18th Amendment (prohibition)	Twenty-third Amendment (1961) Granted voting rights in presidential elections to the residents of the District of Columbia
Twenty-seventh Amendment (1992) Limited the power of Congress to raise members' pay	Twenty-fifth Amendment (1967) Provided for succession in case of the president's death or disability		Twenty-fourth Amendment (1964) Banned poll taxes, or fees imposed on voters
			Twenty-sixth Amendment (1971) Lowered the voting age from 21 to 18

Four Twentieth-Century Amendments Addressed Governance

The Twentieth Amendment changed the start date of presidential and congressional terms. Known as the “lame duck” amendment, it shortened the period in which officeholders who had not been reelected remained in office.

The Twenty-second Amendment limited presidents to two terms. This amendment was prompted by the election of Franklin D. Roosevelt to four terms. The Twenty-fifth Amendment provided for succession to the presidency in case of a president's death or disability and the filling of a vacancy in the office of vice president.

The Twenty-seventh Amendment—the last to be ratified, in 1992—was first proposed 203 years earlier, along with the Bill of Rights. It states that any pay raise Congress votes for itself cannot go into effect until after the next congressional election.

Three Civil Rights–Era Amendments Extended Voting Rights

Between 1961 and 1971, three amendments expanded suffrage for different groups. The Twenty-third Amendment allowed residents of the District of Columbia to vote in presidential elections. As a result, district voters now elect three members of the Electoral College.

The Twenty-fourth Amendment banned poll taxes, which had been used to keep African Americans from voting in some states.

The Twenty-sixth Amendment lowered the voting age from 21 to 18. Ratified during the Vietnam War, it was prompted by arguments that anyone who is old enough to go to war—that is, an 18-year-old—is old enough to vote.

Of all the amendments proposed by Congress but never ratified by the states, perhaps the most famous is the equal rights amendment. The ERA, first introduced in 1923, was intended to guarantee equal rights for women. It was proposed by Congress again in 1972, but did not win ratification in the necessary three-fourths of the states.

4. Guiding Principles of the Constitution

Over the years, the Constitution has acquired an almost sacred status for Americans. Part of the reason for that is its durability: the Constitution has survived, with relatively few changes, for more than two centuries. It ensures stability and continuity in American political life. Furthermore, it has come to represent who we are as a people and a nation. It symbolizes our collective values in a way that most Americans—no matter what their political views—are able to embrace.

Establishing a Limited Government

The framers' main goal in crafting the Constitution was to create a system of limited government. They knew that absolute power often leads to the abuse of rights. On the other hand, they also knew that a lack of governmental power could result in chaos and instability.

The framers tried to make sure that the Constitution gave the government enough power to ensure peace and order, but not so much that its power went unchecked. As James Madison wrote in *The Federalist* No. 51, “You must first enable the government to control the governed; and in the next place to oblige it to control itself.”

The limited government envisioned in the Constitution is based on six guiding principles: (1) popular sovereignty, (2) the rule of law, (3) separation of powers and checks and balances, (4) federalism, (5) an independent judiciary, and (6) individual rights.

Popular Sovereignty

This principle means that power resides in the will of the people. The framers understood that making people the source of power is the best assurance that government will act in the people's interest.

In *The Federalist* No. 39, Madison defined a republic as “a government which derives all its powers directly or indirectly from the great body of the people.” The Constitution supports popular sovereignty through [republicanism](#), or the idea that people elect leaders to a governing body of citizens. One section that upholds this idea is the following:

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States.

—Article I, Section 2, Clause 1

In other words, the people elect members of the House, the more representative body of Congress. Another section ensures republicanism in the states:

The United States shall guarantee to every State in this Union a Republican Form of Government.

—Article IV, Section 4

By guaranteeing republican government in the states, the Constitution extends the principle of popular sovereignty to the states.

The Rule of Law

This principle requires that the American people and their government abide by a system of laws. This is another way to ensure that power is limited and not used in an arbitrary manner. Examples in the Constitution include these:

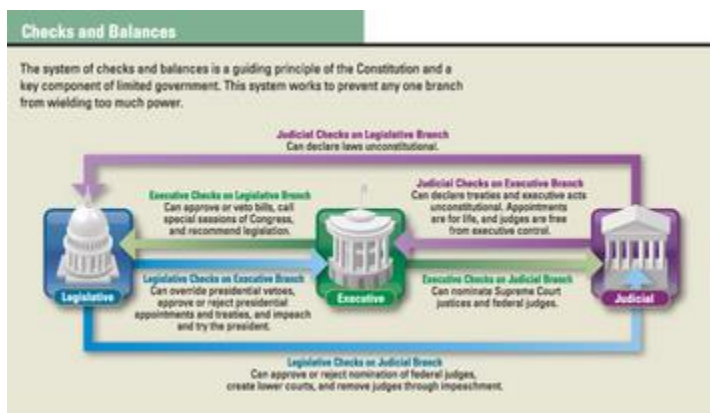
The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

—Article IV, Section 2, Clause 1

In other words, no state may discriminate against the residents of another state. The law must be applied in the same way to all. Another section says,

This Constitution . . . shall be the supreme Law of the Land.

—Article VI, Section 2



This section asserts the authority of the Constitution and federal law over state and local law. When there is a conflict, the Constitution prevails.

Separation of Powers—Checks and Balances

The Constitution divides power in the national government among the three separate branches. This separation of powers was a key component in the framers' vision of limited government. In *The Federalist* No. 47, James Madison wrote, "The accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny."

In the framers' view, separating the powers of government among the three branches would ensure that no one branch could dominate. The framers took this principle a step further by inserting provisions in the Constitution that would allow each branch to check, or limit, the power of each of the other branches. This system of **checks and balances** can be seen in many parts of the Constitution, including the following provision:

He [the president] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur.

—Article II, Section 2, Clause 2

Although the president has the power to make treaties, such treaties must be approved by a two-thirds vote of the Senate to take effect. In this way, the Senate can check the power of the president. This clause goes on to say that the Senate can also block the president's appointment of ambassadors, Supreme Court justices, and executive officers.

Another clause establishes the president's [veto power](#) over bills passed by Congress. It says that the president can refuse to sign a bill into law and instead send it back to Congress:

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 the House in which it shall have originated.

—Article I, Section 7, Clause 2

The clause goes on to say, however, that if Congress passes the bill again with a two-thirds majority, it becomes law without the president's signature, thus checking the president's veto power.

Other sections of Article I address the removal of top officials:

The House of Representatives shall . . . have the sole Power of Impeachment.

—Article I, Section 2, Clause 5

The only way to remove a president, other members of the executive branch, or federal judges from office is by [impeachment](#). This process requires that a simple majority of House members vote to impeach, or formally charge, the official with wrongdoing. A trial then takes place in the Senate:

The Senate shall have the sole Power to try all Impeachments . . . And no Person shall be convicted without the Concurrence of two thirds of the Members present.

—Article I, Section 3, Clause 6

Conviction in a Senate trial requires a two-thirds vote of guilty. The power of impeachment gives Congress a check on the other two branches of government.

Federalism

The fourth guiding principle, [federalism](#), divides power between the central government and the various state governments. In creating a federal system of government, the Constitution also established three types of powers: delegated, reserved, and concurrent.

[Delegated powers](#) are those powers granted to the national government. Delegated powers may be either enumerated or implied in the Constitution. The delegated powers of the federal government include regulating immigration, making treaties, and declaring war.

[Reserved powers](#) are those powers kept by the states. Reserved powers allow states to set marriage and divorce laws, issue driver's licenses, and establish public schools, among many other things. Under the Constitution, much of the exercise of day-to-day power affecting citizens is carried out by the states.

[Concurrent powers](#) are those that are shared by the federal government and state governments. Examples of concurrent powers include taxation and law enforcement. Examples of concurrent powers include taxation and law enforcement.

The federalist principle in the Constitution is most evident in articles and amendments that refer to delegated, reserved, and concurrent powers, such as these:

The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

—Article I, Section 8, Clause 3

This clause, known as the [Commerce Clause](#), gives the federal government the power to regulate trade across state lines within the United States and to both regulate and tax foreign trade. Another article establishes the amendment process:

The Congress . . . 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.

—Article V

The amendment process is an example of concurrent powers. The federal government and the states share the power to amend the Constitution. Other powers are reserved to the states, however:

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

—Tenth Amendment

This amendment reserves for the states or the people any powers that are not given to the federal government.

An Independent Judiciary

The fifth guiding principle, an independent judiciary, was considered essential by the framers to support the rule of law and preserve limited government. In *The Federalist* No. 78, Alexander Hamilton wrote, “The independence of the judges may be an essential safeguard against the effects of occasional ill humors in society.” In other words, an [independent judiciary](#) would protect against abuses of the system by self-interested parties. This principle is found in Article III, which establishes the judicial branch.

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.

—Article III, Section 1

As this section makes clear, judicial authority rests with the Supreme Court and other federal courts. Where the article says that judges shall serve “during good Behaviour,” it essentially means “for life,” unless there is just cause to remove them.

In addition, the salaries of judges may not be reduced while in office. These two provisions—lifetime tenure and a secure salary—help to insulate federal judges from political pressure and influence, and thus preserve their independence.

Individual Rights



The sixth guiding principle, individual rights, played a major role in the struggle to ratify the Constitution. The Anti-Federalists argued that the Constitution did not offer adequate protection for individual rights. The Bill of Rights was added to address their concerns.

Individual rights receive their broadest protection under the First Amendment, which says,

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.

—First Amendment

This amendment protects the rights of individuals to speak their minds and act on their beliefs without fear of arrest or persecution by the government.

In addition, the original text of the Constitution contains references to basic rights, such as trial by jury:

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury.

—Article III, Section 2, Clause 3

Trial by jury is a fundamental right guaranteed to all Americans. Another clause in the Constitution defines treason:

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

—Article III, Section 3, Clause 1

This provision defines the crime of treason in a way that protects the rights of free speech and free expression. Under this definition, no American can be charged with treason for simply criticizing the government. Nor can such charges result in conviction without substantial evidence.