# What is in the Constitution?!

## Preamble

| Why do we need a constitution? | ● Form a perfect union  
● Establish justice  
● Insure domestic tranquility  
● Provide common defense  
● Promote general welfare  
● Secure the blessing of liberty to ourselves and our posterity (future generations of people) |

## Congress

| Enumerated Powers | ● Tax  
● Borrow Money  
● Regulate Commerce  
● Creating Process to Naturalize People (make them citizens)  
● Coin Money  
● Punish Counterfeiters  
● Establish Roads and Post Offices  
● Issue Patents and Copyrights  
● Create Lower Courts that are Inferior to the Supreme Court (federal courts)  
● Punish Piracy  
● Declare War  
● Raise and Support an Army  
● Create a Navy  
● Regulate the Armed Forces  
● Create a Militia (known today as the National Guard)  
● Federalize state Militia  
● Create the District of Columbia  
● Anything Else that is “Necessary and Proper” to Carrying Out Another Power (aka “elastic clause”) |

| Powers Denied | ● Cannot Suspend Habeas Corpus  
● Cannot Use a Bill of Attainder (law that inflicts punishment without a trial)  
● No Ex Post Facto Law can be Passed  
● Cannot Directly Tax Income (changed with 16th amendment)  
● Cannot give preference to states when regulating commerce and taxes  
● Funds cannot be withdrawn from the treasury unless appropriated in an appropriation bill  
● Cannot Issue a Title of Nobility |

| House of Rep. | ● The number of seats each state gets is reapportioned every 10 years after the census  
● Qualifications: 25 years old, must be a citizen for at least 7 years, must live in the district you want to represent  
● If a House seat is empty, the state’s governor can call a special election to fill it. |
| House Powers |  ● All bills for raising revenue must originate in the House of Representatives  
  ● Impeachment (to accuse of a crime) |
|Senate |  ● Qualifications: 30 years old, must be a citizen for at least 9 years, must live in the state you want to represent  
  ● Elections are staggered so that only 1/3 of the Senate’s seats are open to election every 2 years (thus reinforcing the need for midterm elections) |
|Senate Powers |  ● Ratify Treaties (2/3 vote)  
  ● Confirm presidential appointments (majority vote; aka “advice and consent” power)  
  ● Trying cases of impeachment (under the supervision of the chief justice of the Supreme Court) |
|Clauses that Expand Power |  ● Elastic Clause/Necessary and Proper Clause  
  ● Commerce Clause (for example: used for the federal government to ensure rights of freedom riders during civil rights) |
|Legislative Powers |  ● All “orders, resolutions, and votes” by Congress shall be presented to the President  
  ● The president can either sign it or veto it.  
  ● If vetoed, the bill will be sent back and will only become a law if overridden with a 2/3 vote  
  ● If the president does not sign a bill after 10 days and congress is not in session, it is killed *(pocket veto)*  
  ● If the president does not sign a bill after 10 days and congress is in session, it becomes a law |
|Other |  ● There must a majority of people present to conduct business (“quorum”)  
  ● Each house has the power to determine the rules of its proceedings  
  ● Each house has the power to punish its member for disorderly behavior  
  ● Each house can expel a member with a 2/3 vote  
  ● Congress must meet every year at least once; Congress stays in session until its members vote to adjourn.  
  ● Members cannot accept another federal government job while serving in Congress. |

**Executive Branch**

| Qualifications |  ● 35 years old  
  ● Natural born citizen  
  ● Must have lived in the US for at least 14 years |
|Powers |  ● Commander in Chief  
  ● Make Treaties  
  ● Appoint Ambassadors, Justices, & other government officials  
  ● The president has the power to appoint temporary officials to fill vacant federal offices without Senate approval if Congress is not in session |
|Duties |  ● Give State of the Union Address (to Congress! Not the people!)  
  ● Can call Congress into session if they have adjourned  
  ● “He shall take Care that the Laws be faithfully executed” |
| Electoral College | Each state shall choose its electors. The only rule is that a current congress-person cannot be an elector.  
Election dates are set by Congress. They choose the Tuesday after the first Monday in November as the date to “choose electors” (aka for the people to conduct the popular vote), and the electors actually cast their ballots on the Monday after the second Wednesday in December.  
Electors cast one ballot, listing who they want to be president the most, and then who they would want as their second pick and so forth. In the original constitution, the person with the most votes became president and the runner-up would become vice president. When the two-party system started to dominate this became a problem because the president could be from one party and the VP from another. This is why the 12th amendment was added to the constitution. |
| Other | The Vice President is the President of the Senate, but shall only vote if there is a tie.  
The President shall be paid and this salary shall not be lowered while in office.  
The President must take an oath of office. |
| Judicial Branch | **Judicial Power**  
“Judicial Power is vested in one supreme court”  
Judicial power is also vested in “inferior” (lower) courts if Congress makes them.  
THE ORIGINAL CONSTITUTION DOES NOT STATE THAT THE SCOTUS HAS THE POWER OF JUDICIAL REVIEW. THIS WAS A RESULT OF THE CASE MARBURY V. MADISON |
| Federal Courts | Cases that concern the meaning of the US Constitution  
Cases concerning federal laws  
Cases concerning treaties  
Cases that involve citizens of different states and citizens of foreign nations |
| SCOTUS Jurisdiction | Original: Cases that involve a representatives from another country or involve a state; ambassadors, ministers, and counsels  
Appellate: Cases must be tried in a lower court and then can be appealed to the Supreme Court. Congress has some power to restrict this jurisdiction. |
| Treason | Defined as making war against the United States or giving aid to its enemies.  
Congress has the power to punish treason; the minimum punishment is $10,000 and the maximum punishment is death. |
| States | **Interstate Relationships**  
**Full Faith and Credit Clause**: A contract given in one state should be recognized in another state  
**Privileges and Immunities**: If you have a privilege in one state you should have that privilege in another state (example: buy land; work; fight a speeding ticket)  
**Extradition**: A state must return a fugitive if they committed a crime in another state |
| **Powers Denied** | Cannot enter a treaty  
Cannot coin money  
Cannot declare war  
Cannot tax imports |
### Expanding State Power
- 10th Amendment *****BUT REMEMBER, THIS WAS NOT IN THE ORIGINAL CONSTITUTION*****

### Restricting State Power
- Due Process Clause of 14th Amendment *****BUT REMEMBER, THIS WAS NOT IN THE ORIGINAL CONSTITUTION*****
- Equal Protection Clause of 14th Amendment *****BUT REMEMBER, THIS WAS NOT IN THE ORIGINAL CONSTITUTION*****

### Promises to the States
- Each state is promised a republican form of government, one in which the people elect their representatives.
- The federal government is bound to protect the states

### Amending the Constitution

<table>
<thead>
<tr>
<th>Methods to Propose</th>
<th>Methods to Ratify</th>
</tr>
</thead>
</table>
| 2/3 Vote in both houses of Congress  
2/3 of State legislators at a National Convention | 3/4 of state legislators at state conventions  
3/4 of voters in the states (the method was only used once, amendment 21 which repealed prohibition) |

### Other
- **Supremacy**
  "The Constitution, the laws of the United States, and treaties are the supreme law of the land."
- **Ratification**
  Needed 9 states to ratify the Constitution.

### Court Case Trigger Words

<table>
<thead>
<tr>
<th>Case</th>
<th>Significance</th>
<th>Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marbury v. Madison</td>
<td>Gave the SCOTUS the power of <strong>judicial review</strong></td>
<td>Institutions of National Government</td>
</tr>
<tr>
<td>Roe v. Wade</td>
<td>Women have the right to have an abortion, interpreted through a right to <strong>privacy</strong></td>
<td>Civil Liberties</td>
</tr>
<tr>
<td>Gibbons v. Ogden</td>
<td>Congress has the power to regulate interstate commerce, interpreted through the <strong>commerce clause</strong></td>
<td>Constitutional Underpinnings</td>
</tr>
<tr>
<td>McCulloch v. Maryland</td>
<td>Congress has the power to create a national bank, interpreted through the <strong>necessary and proper clause</strong></td>
<td>Constitutional Underpinnings</td>
</tr>
<tr>
<td>Case</td>
<td>Description</td>
<td>Topic</td>
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<td><strong>Mapp v. Ohio</strong></td>
<td>Evidence obtained without a warrant cannot be used in court (exclusionary rule)</td>
<td>Civil Liberties</td>
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<tr>
<td><strong>Gitlow v. New York</strong></td>
<td>The first time a bill of rights amendment was applied to the states through incorporation was freedom of speech</td>
<td>Civil Liberties</td>
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<td><strong>Gore v. Bush</strong></td>
<td>Ruled that Bush won the 2000 presidential election despite ballot issues and recount issues in Florid; Gore won the popular vote but lost the electoral vote</td>
<td>Political Beliefs and Behaviors</td>
</tr>
<tr>
<td><strong>Lemon v. Kurtzman</strong></td>
<td>Created a three part “lemon test” to determine if a state government can give public funds to a private religious school</td>
<td>Civil Liberties</td>
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<td><strong>Tinker v. Des Moines School District</strong></td>
<td>Students have the right to protest in school when their symbolic speech does not disrupt the classroom (students wore arm bands to protest Vietnam)</td>
<td>Civil Liberties</td>
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<td><strong>Texas v. Johnson</strong></td>
<td>Burning the flag is protected symbolic speech</td>
<td>Civil Liberties</td>
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<td><strong>Brown v. Board of Education</strong></td>
<td>Used the equal protection clause of the 14th amendment and judicial activism to end the doctrine of separate but equal (in school); Overturned the precedent set by Plessy v. Ferguson</td>
<td>Civil Rights</td>
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<tr>
<td><strong>Buckley v. Valeo</strong></td>
<td>You cannot limit a candidate using their own money for an election; spending money = free speech</td>
<td>Linkage Institutions</td>
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<td><strong>Citizens United v. FEC</strong></td>
<td>Corporations, interest groups, unions, PACs, etc. have first amendment rights of free speech and you cannot limit their independent expenditures</td>
<td>Linkage Institutions</td>
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<td><strong>Miller v. Johnson and Shaw v. Reno</strong></td>
<td>You cannot draw congressional districts where race is the primary consideration (gerrymandering)</td>
<td>Institutions of National Government</td>
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<td><strong>US v. Nixon</strong></td>
<td>Prior to this case, the President could withhold information from the Courts (<strong>executive privilege</strong>); here Nixon was forced to turn over personal tapes from the Watergate scandal, limiting presidential power</td>
<td>Institutions of National Government</td>
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<td><strong>Schenck v. US</strong></td>
<td>Created the “<strong>clear and present danger</strong>” test to regulate free speech. If you fail the test (your words can bring about “substantive evils”) then Congress has the right to restrict your speech</td>
<td>Civil Liberties</td>
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