

## Short-hand references to some of the important clauses of the Constitution

### Article I

- The **three-fifths** clause (slaves count as 3/5 of a citizen for purposes of representation in the House and “direct taxation” of the states) Par. 2, clause 3
- **Speech and debate** clause (Members of Congress “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.”) Par. 6, clause 1
- **Origination** clause (revenue bills originate in the House) Par. 7, clause 1
- **Presentment** clause (bills that pass the House and Senate are to be presented to the President for his signature) Par. 7, clause 2
- **General welfare** clause (Congress has the power to provide for the common defense and general welfare of the United States) Par. 8, clause 1
- **Commerce** clause (“The Congress shall have power . . . To regulate commerce with foreign nations, and among the several states, and with the Indian tribes”) Par. 8, clause 3
- **Necessary and proper** (a/k/a **elastic**) clause (Congress has the power to make all laws that shall be necessary and proper for executing the powers that are enumerated elsewhere in the Constitution) Par. 8, clause 18
- **Contracts** clause (States may not pass any law that impairs the obligation of any contract) Par. 10, clause 1

### Article II

- **Natural born citizen** clause (must be a natural born citizen of the United States to be President) Par. 1, clause 5
- **Appointments** clause (or the “**advice and consent**” clause) (the President may, with the advice and consent of the Senate, appoint “appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States”) Par. 2, clause 2
- **Take care** clause (or the “**faithfully execute**” clause) (the President shall take care that the laws be faithfully executed) Par. 2, clause 3

### Article III

- **Exceptions** clause (“In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.”) Par. 2, clause 2

### Article IV

- **Full faith and credit** clause (“Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.”) Par. 1
- **Privileges and immunities** clause (or the “**comity**” clause) (“The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.”). Par. 2, clause 1
- **Guarantee** clause (“The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.”). Par. 4

### Article VI

- **Supremacy** clause (or the “**preemption**” clause) (the Constitution, laws made thereunder, and treaties made under the authority of the U.S. “shall be the supreme law of the land” – i.e., federal law trumps state law) Clause 2
- **Oath or affirmation** clause (Members of Congress and officers of the Executive and Judicial branches must take an oath or affirmation to support the Constitution) Clause 3

### The Amendments

- First:
  - **Establishment** clause (Congress shall make no law respecting the establishment of religion)
  - **Free exercise** clause (or just the “**exercise**” clause) (Congress shall make no law prohibiting the free exercise of religion)
  - **Free speech** clause (Congress shall make no law abridging the freedom of speech)
  - **Freedom of the press** clause (Congress shall make no law abridging the freedom of the press)
  - **Assembly** clause (Congress shall make no law abridging the right of the people peaceably to assemble – but don’t forget the “time, place, and manner” caveat)
  - **Petition** clause (or the “**grievance**” clause) (Congress shall make no law abridging the right to petition the government for a redress of grievances).
- Second:

- **Right to bear arms** clause
- Fourth:
  - **Search and seizure** clause (“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.”)
- Fifth:
  - **Double jeopardy** clause (no person shall “be subject for the same offense to be twice put in jeopardy of life or limb” – i.e., can’t be tried twice for the same crime)
  - **Due process** clause (no one shall be deprived of life, liberty, or property, without due process of law)
  - **Self-incrimination** clause (no one shall be compelled in any criminal case to be a witness against himself)
  - **Just compensation** clause (a/k/a the “**eminent domain**” clause) (the government shall not take private property for public use without just compensation).
- Sixth:
  - **Compulsory process** clause: in all criminal prosecutions, the accused shall have the right --
    - to a trial by an impartial jury where the crime was committed,
    - to be told what the alleged crime is (a/k/a an “indictment”)
    - to be confronted with the witnesses against him
    - to have compulsory process for obtaining witnesses in his favor – i.e., the right to subpoena witnesses, and
    - to a lawyer.
  - **Speedy trial** clause (In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial.)
- Eighth:
  - **Cruel and unusual punishment** clause: it’s prohibited, along with excessive bail.
- Ninth:
  - **Other rights** clause: makes clear that the omission of a right from those listed in the Bill of Rights does not mean that the omitted right does not exist.
- Tenth:
  - **Reserved power** clause (“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.”).
- Fourteenth:
  - **Due process** clause. No state shall deny any person life, liberty, or property without “due process”. This has been applied to both procedural due process and substantive due process. The basis for “selective incorporation” of the Bill of Rights (i.e., prohibiting states from denying a person those rights protected by the Bill of Rights).
  - **Equal protection** clause: No state shall deny any person equal protection under the law. A basis for many of the civil rights cases.
  - **Citizen** clause: “All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States....”)
- The **Voting** amendments:
  - 15th (race)
  - 17th (direct election of U.S. Senators)
  - 19th (gender)
  - 23rd (DC electors)
  - 24th (poll tax)
  - 26th (age)
- The **alcohol** amendments:
  - 18th (prohibition)
  - 21st (repealed prohibition)
- Amendments related to the **presidency**
  - 12th (Electoral College)
  - 20th (term; succession)
  - 22nd (term limits)
  - 25th (disability)