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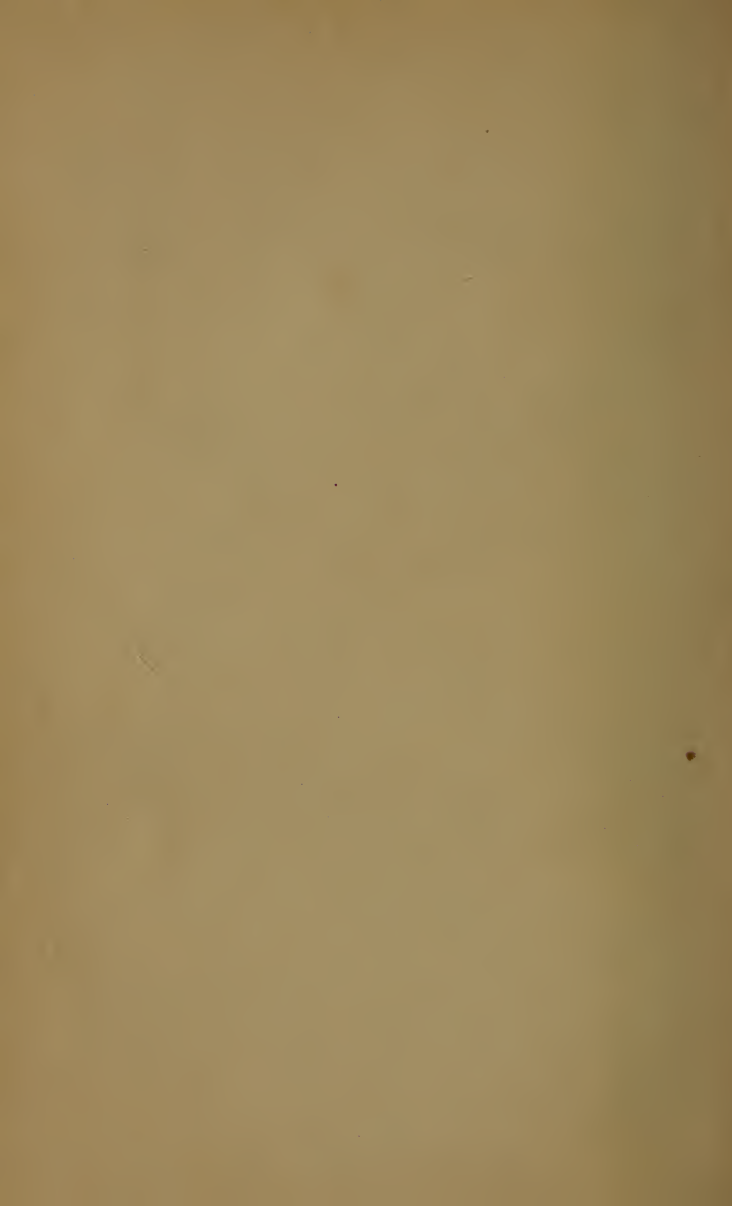




Class \_\_\_\_\_

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Antoinette Colson



A

SHORTER COURSE

IN

CIVIL GOVERNMENT,

CONSISTING OF

SEVENTY LESSONS.

ARRANGED IN TOPICS, WITH NUMEROUS QUESTIONS FOR  
CONVENIENCE IN TEACHING.

PREPARED FOR THE USE OF

COMMON, SELECT, AND GRAMMAR SCHOOLS.

BY

CALVIN TOWNSEND,

COUNSELOR AT LAW,

Author of "Analysis of the Constitution of the United States," "Analysis of Civil  
Government," "Compendium of Commercial Law,"  
"Analysis of Letter-Writing," &c.

IVISON, BLAKEMAN & COMPANY,

NEW YORK AND CHICAGO.

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# TOWNSEND'S CLASS-BOOKS.

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FOR THE USE OF SCHOOLS, COLLEGES AND PRIVATE LEARNERS.

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## P R E F A C E .

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THE first attempt ever made to present the subject of Civil Government in a really didactic form, was made by the author a few years ago, through his *Analysis of Civil Government*. Although the method was entirely new, and therefore open to fair criticism, that work has been received with favor, and is used as the text-book on the subject by many of our most prominent institutions of learning. From its first appearance, the call for it has increased to an extent both flattering to the author, and gratifying to the publishers.

But it would be difficult, if not impossible, to prepare a text-book on any subject, equally adapted to all grades of scholarship. A book may meet the wants of a college or university, which may not be convenient for use in preparatory schools. Hence, while the *Analysis of Civil Government* has proved its entire fitness for the higher institutions, the calls have been numerous from teachers of common, select, and grammar schools, for a shorter text-book; but on the general plan of the *Analysis*.

Thousands of our live, earnest, devoted educators, believe with a working faith, that the day is not distant when Civil Government will be in the list of compulsory studies in the common school. From many of this class of faithful laborers, the author has received letters, urging and encouraging him to the preparation of this little volume. One correspondent says: "The common schools do not call for a *better* book than your *Analysis of Civil Government*; but one that is shorter, simpler, and more easily taught to the boys and girls of ages from twelve to sixteen years. Your *Analysis* is all that could be asked in high schools, normal schools, and even colleges and universities."

This little volume is not intended to take the place of the author's larger work, herein referred to. Every teacher who uses this, will find *that* book a great convenience, if not a necessity, on his table. It dwells more at large, and in detail, on many matters that are but very briefly noticed in these pages.

The peculiarities of this class-book are, in some degree, the result of friendly suggestions from sources already credited; and are as follows:

1. The matter is presented by topics and in analytical form.
2. The chapters are divided into lessons, each of convenient length for class drill.
3. For convenience in teaching, each lesson is immediately followed by questions relating to the subject-matter thereof.

Some other suggestions have been urged which have been entirely disregarded. These propose to take up the State governments, treat them one by one, as independent and separate systems, and teach the duties of town, city, county, and State officers, how they are elected, or appointed, and their compensations.

To follow such a suggestion, would require not only several ponderous volumes, but each must be, so far as the science of government is concerned, a substantial repetition of the other. Such books might possibly find place on the shelves of a State library; but there is no place for them in the school-room. They would be nothing but a pile of rubbish.

To learn the duties of town, city, and county officers, has nothing whatever to do with the grand and noble subject of Civil Government.

It may be doubted whether one who proposes such minutia of detail, has any definite idea of the term *Civil Government*.

Whoever understands the history, purposes, philosophy, and grand plan of the *general* government, comprehends any State government, by a mere glance at its Constitution. There is such a marked similarity of the State governments to each other, and of all, to the government of the United States, that when the last named is understood by the student, he fully comprehends the others. To attempt class drill on petty town and county offices, would be simply burlesque of the whole subject.

The author submits the result of his effort to the candid and enlightened judgment of the great army of educators in the United States. He has labored under a most painful burden in this last attempt at authorship; one which he fervently prays that neither teacher nor pupil may ever personally realize. He alone can fully appreciate the embarrassment under which this work has been written who has himself attempted a similar task with sightless eyes.

THE AUTHOR.

ROCHESTER, N. Y. }  
 Sept., 1875. }

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# CHAPTER I.

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## LESSON 1.

### *CIVIL GOVERNMENT.*

THE word *government*, in its general and comprehensive sense, signifies that influence and power which one person or thing exercises over others. The mainspring of a watch, for instance, governs the movement of that machine. Gravitation governs the motions of the heavenly bodies, and, to some extent, of all others.

A father governs his family. The mayor and aldermen of a city govern the affairs of that corporation. The president and professors of a college or university are called the faculty, who govern the institution, as the schoolmaster governs his school. The sovereign of a nation governs the people of whom it is constituted. No nation could exist, as such, for a single month without organized government in some form or other. No citizen could enforce his rights to security of property and personal safety against the attacks of the vicious and depraved. He would not be safe under his own roof, but would be in constant danger while sleeping in his own bed, and reposing on his own pillow.

This would be a condition of fearful anarchy. Under such a state of things, no person could feel the least interest in the accumulation of property; for it would be sure to be wrested from him by the hands of thieves and robbers. He could feel no incentive to the cultivation of

fields and gardens ; for they would be despoiled by ruthless vandals and reckless marauders.

Without the power of government, in some organized form, the sufferers from such outrages could obtain no redress, except through those retaliatory measures that must lead to anarchy and bloodshed among the parties concerned. There would be no tribunal by which to try, condemn, and by whose authority to punish such offenders. The weak must surrender to the strong, and right must give way to might. Mere physical force and brutality would triumph over justice and reason. The strong man, like the strong beast of the forest, would be king among his kindred. But, under the authority of good government, the bad man, however gigantic in form and strength, may be restrained in his vices, and punished for his crimes.

As here used, the word *government* signifies the organized means and power that a state or nation employs for the purpose of securing the rights of the people, and of perpetuating its own existence.

Government is of various forms, depending on the choice of those who have the power to establish it. The most ignorant nations are governed by tyrants and despots, who rule without any regard to the welfare of their subjects. The caprice of the sovereign is the law ; and it must be obeyed, though the heads fall from the shoulders of a thousand subjects at a blow. Nothing but the profoundest ignorance of the people could give security and stability to the throne of the despot. "Despotism is the only form of government which may, with safety to itself, neglect the education of its infant poor." The despot rules without regard to a constitution or laws.

Hence history shows that the more despotic the government, the more ignorant the common people. Let the people be educated the world over, and despotic govern-

ments would be known only as institutions of the past. They would be lost in by-gone history.

The statesman knows that a form of government well adapted to the condition of a refined and intelligent people, is not the form adapted to a people sunk in ignorance and superstition. The common school house is an enemy to despotism, and the friend to free government. Intelligence qualifies the citizen for self-government. It enables him to judge for himself on all questions affecting the public interest. He is not satisfied when denied a voice in their decisions.

While a free government, like that of the United States, is the best possible form for an intelligent and virtuous people, on the other hand it is the very worst for the ignorant and depraved. Under the sway of the latter class the power of administration would be likely soon to fall into the hands of political intriguers and ambitious demagogues.

The safety of our government depends entirely on the virtue and intelligence of the common people. An ignorant voter, with the ballot in his hand, may do as much damage to the commonwealth, as the mercenary legislator or a corrupt executive.

The following are the principal forms of government known in history. In some countries there may be a combination of two or more of them; while in others there may be a modification of any one of them. 1. PATRIARCHAL; 2. THEOCRATIC; 3. MONARCHIAL; 4. ARISTOCRATIC; 5. DEMOCRATIC; 6. REPUBLICAN.

I. *PATRIARCHAL*.—This was the first and is the oldest human government. It is family government, or that form exercised by the father over his family. From the necessary relations of a father to his household, this kind of government is founded in nature. It existed from the earliest ages, long before states and nations were

known, and while there were but few inhabitants on the earth. It was the *only* form until several centuries after the flood. It still exists in some parts of Asia, Africa, and among the North American Indian tribes. Indeed, in a limited sense, it prevails wherever there is a household to govern, though perhaps not in the ancient mode. Strictly speaking, it lies at the foundation of all good government. When every father becomes a *true* patriarch at home, the national security will rest on the moral sense and intelligence of the people.

II. **THEOCRATIC.**—This form of government belongs, in history, to the Old Testament ages. A theocracy is a form of government under the immediate direction and administration of God. The ancient Israelites were governed in this manner for nearly fifteen hundred years. They received their law on Mount Sinai by direct revelation from God. This form of government became extinct at the dawn of the Christian era.

III. **MONARCHIAL.**—A monarchial form of government is one that is administered by a monarch. The country, kingdom, or empire over which he exercises jurisdiction, is called a monarchy. It is that form of government in which the supreme authority is vested in a single person, who is called the monarch. He may be otherwise called king, emperor, czar, shah, sultan, or by any other term significant of his position.

With reference to the power vested in the sovereign, monarchies may be divided into two classes: 1. *Absolute*; 2. *Limited*.

1. **Absolute.**—An absolute monarchy is one over which the sovereign rules with absolute power, holding himself responsible to no earthly tribunal for what he sees fit to do. He not only *makes* the law by which to govern his subjects, but interprets and executes it according to the caprices of his own will. In other words, his arbitrary

will is the law of the realm. He does not, indeed, in all cases attend personally to the details of his government; but he appoints subordinate officers for this purpose. Their tenure of office, their salaries, and even their lives are at his disposal. If, in his tyranny, he order that a hundred or a thousand of his hapless subjects shall be decapitated, their heads are severed from their bodies.

Such a ruler is a despot, and his government a terrible despotism. Russia, China, Persia, Morocco, and some other oriental countries are absolute monarchies.

**2. Limited.**—A limited monarchy is a government in which the sovereign is restrained by a constitution and established laws. These laws have their force by the decisions of the courts, by long-established usage, and by the enactments of the legislative authority.

The monarch is simply the executive branch of the government. He can execute the laws, but he cannot make them. The court, not the king, interprets them. The parliament makes the statutes, though the assent of the sovereign is essential to their validity; but that assent is rarely withheld. The sovereign of a limited monarchy has no right whatever to disregard the laws of his kingdom or empire; like his humblest subjects he must obey them. Such a government may be called a constitutional monarchy.

With reference to the sovereign's title to his throne, monarchies are of two classes: *a. Hereditary*; *b. Elective*.

*a. Hereditary.*—Under a hereditary monarchy the sovereign obtains his title to the throne by birth. The oldest son of the deceased monarch takes the crown of his father by inheritance. If there is no son the oldest daughter succeeds to the throne of the father. Edward VI of England, though but a lad in years, succeeded to the throne of his father, Henry VIII, in preference to his sisters, Mary and Elizabeth, both of whom were much



older than the boy-king. At his death, having reigned but six years, Mary, his elder sister, was crowned. At her death, five years thereafter, the younger sister, Elizabeth, was crowned Queen of England.

Had Edward married, and become the father of children, they would have been heirs to the throne, to the exclusion of Mary and Elizabeth.

William I, a foreigner, obtained the throne of England in a single battle, fought in 1066 on the north shore of the British Channel. He is known in history as William the Conqueror. That single conflict of arms at Hastings decided who should occupy the throne of that country for more than eight hundred years, and probably for more than a thousand. The crown of royalty has rested on the brow of his descendants ever since the twenty-fifth day of December, the year of that eventful struggle. Yet, not one of this long line of kings and queens has ever ascended the throne by the formal, expressed choice of English subjects. In many instances it has been occupied by foreigners, and in every case it has been claimed by right of birth.

*b. Elective.*—An elective monarchy is one whose sovereign is elected to the throne by his subjects, or by those holding official positions giving them a voice in the proceeding. He is elected for life. There have been but few such monarchies.

**IV. ARISTOCRATIC.**—An aristocratic government is one in which the power to rule the affairs of state is vested in the hands of a few persons—a select body of men. Aristocracy signifies a government of the best, or by the best. They may hold their positions by right of birth, or by appointment.

A government is said to be aristocratic, the constitution of which establishes privileged classes, as the nobility and clergy, and entrust the government entirely to them, or

allows them a very disproportionate share in it. Such was formerly the government of Venice; and some of the Swiss cantons are governed in the same manner. More or less of this element pervades the most powerful governments of Europe. It is wholly absent in the government and constitution of the United States. We have no orders of nobility, and no privileged classes.

**V. DEMOCRATIC.**—A democratic form of government is one in which the ruling power, or the principle of sovereignty, is exercised by the people. Strictly speaking, it is one under which the people assemble together at stated times, and all have a voice in making the laws by which they promise to be governed.

By the word *people*, as here used, the qualified voters only are included. The qualifications to vote are generally defined by a constitution, called the fundamental law of the nation. Proper age, male sex, citizenship, and residence are the usual conditions for a voice in public affairs.

Some of the cities of ancient Greece acted under this form of government; and some of the smaller Swiss cantons govern themselves by the same mode. But it is a very unwieldy, clumsy method, and utterly impracticable in a state of considerable population, or breadth of territory.

**VI. REPUBLICAN.**—This is a representative government. The state or nation is governed by laws made by representatives chosen by the voters at elections held at stated times; and most of the officers of government are elected in substantially the same way. The officer or representative is chosen by the people, and is their agent or servant.

A full definition of the word *republican*, as generally understood, necessarily includes the element of democracy. The people's voice is heard in the election; and this is

democratic. But the law-making and law-executing are done by those who are elected for these purposes. The latter is the *republican* element, or representative feature.

Hence the government of the United States is democratic-republican. The term republican, however, is the one by which it is usually known. Defined by the extent and peculiarities of jurisdiction, the country known as the United States has two distinct classes of government. These are : 1. *State* ; and 2. *Federal*.

**1. State Governments.**—Each state, known and defined by geographical boundaries, has a dependent republican government of its own. Before it entered the Federal Union it possessed all the attributes of national sovereignty. It could make treaties and form alliances ; it could declare war, grant letters of marque and reprisal, and conclude peace ; it could raise and support armies and navies ; it could coin money, and emit bills of credit ; and, in short, exercise all the prerogatives of an independent nation.

But these powers, and several others, were surrendered to the general government when the state became a member of the federal union. On assuming this relation the states ratified the Constitution of the United States. By this act all the states not only created a new government over themselves, but entered into entirely new relations to each other. They accepted a constitution as the bond of their union.

This bond clearly defines what they severally resign for the common good, and what they reserve.

**2. Federal Government.**—The federal government is the outgrowth of this union of the several states. The form of this government is, like that of each of the several states, republican. It has, like the states, three distinctive branches or departments: the legislative, executive, and judicial.



The nation has its president, and the state has its governor ; the nation has its vice-president, and the state its lieutenant-governor. The nation has its congress, and the state its legislature. The nation has its federal judiciary, and the state has its system of courts. In many other respects the pupil will find a close analogy between the state and federal government. If he will make himself well acquainted with the Constitution of the United States, he can easily acquire a general knowledge of any state government by attentively reading its constitution. He will find that in many particulars the state constitutions are not only similar to each other, but, in numerous instances, bear a striking resemblance to the constitution of the federal government.

Although six specific forms of government have been defined, they are either monarchical or democratic in character, or a mixture of these. Patriarchal and theocratic are definite forms of the monarchical. The rule of an empire by one man is of the same class. God governed the Israelites by direct authority. The father governs his family by direct command ; and the will of the absolute sovereign is the law for his millions of subjects. These several types of the monarchical form are called by different names, because thereby the exact relations of sovereign to subjects are more clearly expressed.

The democratic form is a government "*of* the people, *by* the people, and *for* the people." A republican government might be defined by the same words. The sovereignty is in the people, but is exercised indirectly. They choose their own officers, law-makers, and law-interpreters. In a few instances the officers are chosen by intermediate authority ; but this method is sanctioned by the people.

A government purely aristocratic, as generally defined, can hardly be found in history ; certainly not of long continuance. This element may be combined with the mo-

narchial or democratic, and it usually is ; but as an independent government it must be a usurpation. It excludes all idea of authority except what is assumed. For, if the aristocratic rulers derive their power from the sovereign of a kingdom or an empire, the monarchical form appears ; if, on the other hand, they are elected or appointed by the people, directly or indirectly, the democratic form appears. In either case there is not an *independent* aristocracy, but one that is dependent on the form to which it is attached or allied.

In all monarchies of modern times, whether absolute or limited, this element is present. In Great Britain, for instance, there is a titled nobility, distinct from the royal family. It consists of several orders : dukes, marquises, earls, viscounts, and barons. Orders of nobility sit in the shadow of every earthly throne. Without them, royalty itself must languish and die.

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## POLITICAL MAXIMS.

1. The good of the governed is the only true object of every government.
2. That government, under which the rights of all persons are not equally protected, is organized injustice.
3. Under a genuine republican government there are no political distinctions of birth.
4. An intelligent people cannot live under a government in which they have no voice.
5. For a moral and intelligent people a republican government is the best in the world ; for an *immoral* and *ignorant* people it is the worst.
6. The Constitution of the United States should be carefully studied by every American citizen.
7. Every citizen should be familiar with the constitution of his own state.
8. Every enfranchised citizen should exercise his right of suffrage.

9. No citizen should approach the ballot box, ignorant of the question to be decided by his vote.
  10. The Constitution of the United States lies at the foundation of all political knowledge relating to this country.
  11. School-houses and schoolmasters are forts and garrisons to a republic.
  12. In the United States the ballots of ignorant voters are more to be dreaded than the muskets of foreign soldiers.
- 

## QUESTIONS.

1. What does government mean?
2. What examples are given?
3. What could we do without government?
4. Why would we be unsafe without it?
5. What are the advantages of government?
6. What does the word government here signify?
7. What about the forms of government?
8. Who govern the most ignorant nations?
9. How do despots rule?
10. What does history show as to ignorance?
11. What does the statesman know?
12. What is said of the school-house?
13. What is said of the government of the United States?
14. On what does its safety depend?
15. What is said of the ignorant voter?
16. What forms of government are known in history?
17. In what is the first founded?
18. What is said of it?
19. Where does it now exist?
20. What is said of a theocratic form?
21. When and over whom did it prevail?
22. Where did the Israelites receive the law?
23. What is said of a monarchy?
24. By what terms may monarchs be known?
25. How are monarchies divided?
26. What is an absolute monarchy?
27. What countries are despotisms?
28. What is a limited monarchy?
29. What is the limit of the sovereign's power over it?
30. What may such a government be called?

31. What is said of a sovereign's title to his throne?
32. What example is given?
33. What is said of William the Conqueror?
34. What did the battle of Hastings decide?
35. What is an elective monarchy?
36. What is an aristocratic government?
37. Where have such existed?
38. What is said of it in Europe and in the United States?
39. What is the democratic form?
40. How are the qualifications to vote defined?
41. Where has the democratic form prevailed?
42. What is a republican government?
43. What is that of the United States?
44. What is said of state governments?
45. What changes in the states on entering the Union?
46. What is the federal government?
47. How are the state and general government compared?
48. What are the two *principal* forms of government?
49. What are the others?
50. What is said of the democratic-republican form?
51. What of the aristocratic?
52. What is said of this element in Great Britain?
53. What are orders of nobility there?

## CHAPTER II.

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### LESSON 2.

#### *SETTLEMENT OF AMERICA.*

A COLONY consists of a company of people who associate together for mutual advantage in the settlement of a remote country. Having a common object, they generally are induced to thus unite on account of similarity of views on religion, politics, or social interest. They may migrate from a single country or nation, or from different countries. A settlement thus formed is called a colony, and this mode of settlement is called colonization.

A colony usually adopts local laws for its own convenience, adapted to its circumstances, but subject to the general laws and government of the country from which the people of the colony emigrated. If they came from England, they would be called an English colony ; if from Spain, they would be called a Spanish colony ; thus taking the name from the country in which the inhabitants had formerly resided.

Different parts of the great North American continent were colonized in the manner just named. Four hundred years ago nothing was known of America to the Europeans. It had not then been discovered. When Columbus first landed on these shores, the country was one vast wilderness, inhabited by rude and ignorant savages, having no knowledge of law, government, religion, science, litera-



ture or art. They had no churches, no schools, no gardens, no farms. They lived by hunting, and gathering fruits and roots of spontaneous growth. They clothed themselves with the skins of beasts. As to their food, they knew not how to preserve it ; made no provision for the future, but were dependent on each day's efforts for each day's supply. Hence starvation might overtake them any day. They lived in rude huts and wigwams, and slept on the bare ground through all seasons of the year.

On account of religious and political intolerance and persecution in the countries of Europe, and other home grievances, thousands of people left their native country in the old world and migrated to the new. Here they planted colonies all along the coast of the Atlantic in North America. These settlements were for the most part made by English subjects ; and, in the course of time, the colonies were all brought under the authority of the British crown.

When territory is found uninhabited at the origin of new settlements therein, it is usual to adopt the laws of the nation from which the settlers have migrated, so far as they may be found applicable to the new condition of things.

Although this country was occupied by a wild, uncultivated and savage population, without law or government in any civilized sense, the colonists chose to consider themselves as settling an uninhabited territory. As a large proportion of the new settlers of these colonies were from England, they would naturally lean to the jurisprudence of that country.

It must be remembered, also, that the colonies were nearly all settled under the patronage and favor of Great Britain. Those that were not, soon came under the jurisdiction of the British crown.

The growth of the colonies was slow and gradual, extending through a period of from one hundred to one hundred and fifty years. The following are the names and dates respectively of their first permanent settlements :

Virginia.....	1607	Rhode Island.....	1636
New York.....	1614	Delaware.....	1638
Massachusetts.....	1620	Pennsylvania.....	1643
New Jersey.....	1620	North Carolina.....	1663
New Hampshire.....	1623	South Carolina.....	1670
Maryland.....	1634	Georgia.....	1733
Connecticut.....	1635		

Over these colonies the British government maintained supremacy for more than a hundred years. But the latter part of the eighteenth century the colonies became so disaffected towards the government of England, on account of what they regarded as oppressive measures of the British Parliament, that they were induced to declare themselves independent of the authority of that country. This formal act of separation is called the Declaration of Independence. It was made in a congress composed of delegates from all the colonies, on the fourth day of July, in the year one thousand seven hundred and seventy-six.

In this Declaration the colonies, by their representatives, proclaimed themselves free and independent states. They abjured all allegiance to the British crown, and assumed that, as free and independent states, they possessed all the attributes and prerogatives of a sovereign and independent nation.

The colonies had been at war with Great Britain more than a year before this Declaration. The war continued seven years longer, and resulted in the complete triumph of the American cause. Great Britain acknowledged the independence of the United States, and peace between the two countries was proclaimed in one thousand seven hundred and eighty-three.

## QUESTIONS.

1. What is a colony ?
2. What does a colony usually do ?
3. From what does a colony take its name ?
4. What was the condition of the country when Columbus first landed in America ?
5. What is said of the savages ?
6. Why did people leave the old country for the new ?
7. What did they do here ?
8. By whom were most of the settlements made ?
9. Under whose authority were they ?
10. What is the practice on finding new territory ?
11. What did the colonists consider the territory which they settled ?
12. Under whose patronage were the colonies established ?
13. What is said of the growth of colonies ?
14. What was the date of the settlement of each ?
15. How long did the British government maintain supremacy over these colonies ?
16. What occurred the latter part of the eighteenth century ?
17. What is this formal act called in history ?
18. By whom, and when was it made ?
19. What did the colonies proclaim in this Declaration ?
20. How long did the war continue ?
21. When was peace proclaimed between the two countries ?



## CHAPTER III.

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### LESSON 3.

#### *ARTICLES OF CONFEDERATION.*

**A**FTER the Declaration of Independence was passed, a plan was adopted by which to unite the states as one nation. In the month of September, 1776, Congress proposed Articles of Confederation, and caused them to be sent to the several states, asking for their ratification of the same. These Articles were not to be binding between the states ratifying them, until they should receive the approval of all.

In July, 1778, the ratification of all the states had been obtained, except Delaware, New Jersey, and Maryland. The assent of New Jersey was given Nov. 25 of the same year; of Delaware, Feb. 22, 1779; and of Maryland, March 1, 1781. On the second day of March, 1781, Congress assembled under the Confederation.

But the Revolutionary War, which began in 1775, had continued all this time; during which the states had been united by the ties of a common interest, by the sense of a common danger, and by the necessities of a common cause, having no written bond of union. In short, they were held together by their fears.

The following are some of the peculiarities that distinguish the Articles of Confederation from the present Constitution.

1. The Confederation was declared to be a firm league of friendship between the several states.
2. Delegates to Congress were to be appointed annually, in such manner as the legislature of each state might direct.
3. The power was reserved to the states to recall their delegates, or any of them, within the year, and to send others in their places for the remainder of the year.
4. No state was allowed representation in Congress by less than two, nor more than seven members.
5. No person was eligible to a seat in Congress for more than three, in any term of six years.
6. Each state had to maintain its own delegates in a meeting of the states, and while as members of the committee of the states.
7. In determining questions in the Congress, each state had but one vote.
8. All charges of war and other expenses, incurred for the common defense and general welfare, were to be defrayed out of a common treasury.
9. The treasury was to be supplied by the several states, in proportion to the value of all lands, and the improvements and buildings thereon, within each state, granted to or surveyed for any person, to be estimated according to the direction of Congress.
10. Congress was to send and receive ambassadors.
11. Congress was the tribunal of last resort, on appeal, in all disputes and differences between two or more states, concerning boundary, jurisdiction, or any other cause whatever.
12. Congress was the tribunal to decide all controversies concerning the private right of soil claimed under different grants of two or more states, under certain limitations.
13. Congress was to commission all the officers of the United States.
14. Congress had authority to appoint a committee, to sit during the recess of that body, to be denominated "a Committee of the States," and to consist of one delegate from each state.
15. Canada, acceding to the Confederation, and joining in the measures of the United States, was to be admitted into the Union.
16. The Union was to be perpetual.
17. No provision was made for any such officer as President.
18. There was no national judiciary.
19. Congress consisted of but one house.

By reference to the foregoing synopsis of peculiarities in the Articles of Confederation, it is not remarkable that, as a constitution for the country, they soon proved a failure. They were hastily prepared, and public attention being almost wholly absorbed on the great events of the day, they did not receive that critical investigation which their importance demanded. As a plan of union they were never entirely satisfactory to the leading statesmen of that day.

It was but five or six years after their ratification by all the states before decisive steps were taken for their revision. Their insufficiency had become so completely demonstrated that a wide-spread conviction prevailed that they must either be revised or abandoned altogether.

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## QUESTIONS.

1. What was done after the Declaration of Independence?
2. What was proposed by Congress?
3. When did the states ratify the Articles of Confederation?
4. When did they go into operation?
5. How were the states united during the war?
6. What were some of the peculiarities of the Articles of Confederation?

## CHAPTER IV.

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### LESSON 4.

#### *ORIGIN OF THE CONSTITUTION.*

ON the 21st of January, 1786, the Virginia legislature took the first step which finally led to the formation of the present Constitution of the United States. That day they passed the following resolution :

“*Resolved*, That Edmund Randolph, James Madison, jr., Walter Jones, St. George Tucker, and Meriweather Smith, Esqs., be appointed commissioners, who, or any three of whom, shall meet such commissioners as may be appointed in the other states of the Union, at a time and place to be agreed on, to take into consideration the trade of the United States ;

“To examine the relative situations and trade of said states ;

“To consider how far a uniform system in their commercial regulations may be necessary to their common interests and their permanent harmony ;

“And to report to the several states such act relative to this great object, as, when unanimously ratified by them, will enable the United States in Congress effectually to provide for the same.”

The time and place of meeting were left to the commissioners, and they fixed on the first Monday of September following, at Annapolis, Md. In response to the action of Virginia but eight states appointed commissioners to

attend the meeting. When the time of meeting arrived, only five states were represented: New York, Pennsylvania, Virginia, Delaware, and New Jersey.

The meeting, it had become evident, must prove a failure; for so few commissioners were present it was thought to be unwise to proceed to the business for which the meeting was called. But they were reluctant to adjourn without taking some forward step.

The New Jersey deputation had a commission extending its object to a general provision for the "exigencies of the Union." Acting on this suggestion, a recommendation for this enlarged purpose was reported by a committee to whom the subject had been referred.

That report was written by Alexander Hamilton, of New York, and addressed to the legislatures of the states represented in the convention.

This report was an able, lucid, and elaborate document, recommending another convention of deputies from all the states, to meet on the second Monday of May following, 1787, in the city of Philadelphia. A copy of the report was also sent to Congress.

Virginia again took the lead, and was the first to appoint deputies to the proposed Philadelphia Convention; among whom was their most distinguished citizen, George Washington.

Feb. 21st, 1787, a resolution was moved and carried in Congress, recommending a Convention to meet in Philadelphia at the time suggested in the report, "for the purpose of revising the Articles of Confederation, and reporting to Congress and the several state legislatures such alterations and provisions therein, as shall, when agreed to in Congress and confirmed by the states, render the Federal Constitution adequate to the exigencies of government and the preservation of the Union."

But on account of the uprising, known as the Shays'



rebellion in Massachusetts, which had occurred within the last year or two, the deranged condition of the finances of the country, and sharp controversies, verging on open hostility, between several of the states, the public mind was drifting in the right direction to favor the recommendation of Congress. The states promptly acted through their legislatures, and delegates were appointed to meet in the proposed Convention to revise the Articles of Confederation.

On the day appointed, however, the second Monday in May, 1787, there was by no means a full representation of the states; there being present but twenty-nine delegates. They did not immediately proceed to business, therefore, but adjourned from day to day, waiting for a fuller delegation, until Friday, the 25th. On that day they organized by unanimously choosing George Washington president of the Convention.

The daily sessions of that body continued until the 17th of September, four months and three days from the day appointed for their meeting. Their sessions were secret—they sat with closed doors; and although the new Constitution was soon published to the people, the daily proceedings of the Convention were not known until more than fifty years after its labors were ended.

James Madison, of Virginia, afterwards President of the United States, was a member of the Convention. He was a very ready writer of shorthand, and took copious notes of the proceedings. These notes were published by authority of Congress, over fifty years thereafter, and several years subsequent to their author's death. They are known in their published form, three large volumes, as *The Madison Papers*.

When their labors were finished, a copy of the new Constitution was sent to Congress, then in session, with the recommendation that it should be presented to the

people for ratification by state conventions called for that purpose.

In response to the recommendation of the Convention, Congress took the necessary steps to have the new Constitution transmitted to the several state legislatures, in order to be submitted to a convention of delegates chosen in each state by the people thereof.

By the terms of that document, the ratification of the conventions of nine states was declared sufficient for its establishment between the states so ratifying the same.

Three states ratified it before the close of the year 1787, and eight more by the 26th of July, 1788; so that, in less than one year from the time of its submission to the people, a sufficient number of states had accepted it as the fundamental law of the land, to warrant the commencement of operations under it.

Under the direction of Congress, representatives were elected by the people, and senators by the state legislatures, and electors of President and Vice-President were chosen. On Wednesday, the fourth day of March, 1789, the first constitutional Congress met, and proceedings were commenced under the new organization soon after.

In those days travel was far more difficult than in these later days of railroad facilities. A quorum in Congress, therefore, did not assemble until the 6th of April, at which time the votes for President were counted; and it was found that George Washington was unanimously elected. John Adams, of Massachusetts, was elected Vice-President. Thus the new government was now in full operation.

## QUESTIONS.

1. What did Virginia do January 21, 1786?
2. Who were the commissioners appointed?
3. What time and place did they select?
4. How many states appointed commissioners besides Virginia?
5. How many and what states were represented in the meeting?
6. Why did not the meeting proceed to business?
7. What course did they take?
8. What subject was referred to a committee?
9. By whom was that report written?
10. What was the substance of the report?
11. What course did Virginia take?
12. What was done in Congress about the matter?
13. What circumstances caused a favorable change in the public mind?
14. What course did the states take?
15. How many delegates appeared at the time and place of meeting?
16. When did the Convention organize?
17. Who was chosen president?
18. How long did the session continue?
19. How were the sessions held?
20. What is said of Mr. Madison?
21. What was done when the Convention finished its work?
22. What course did Congress take?
23. How many states ratified it in 1787?
24. How many in 1788?
25. What proceedings followed these ratifications?
26. When did the first Congress meet?
27. Who was chosen the first President?



# CHAPTER V.

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## LESSON 5.\*

### *CONSTITUTION OF THE UNITED STATES OF AMERICA.*

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NOTE.—A large figure is placed on the left margin of each paragraph of the following copy of the Constitution, so that the paragraphs may be referred to by *numbers*. This will be found a convenience in studying the *Analysis* of the Constitution, as the corresponding figures are used there.

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#### PREAMBLE.

1 WE, the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

#### ARTICLE I.

##### SECTION 1.

2 All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

##### SECTION 2.

3 1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

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\* The teacher should require the pupil to become so familiar with this chapter as to answer the questions at the end of it.

4 2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

5 3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and, until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

6 4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

7 5. The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

### SECTION 3.

8 1. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years; and each Senator shall have one vote.

9 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.

10 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 that State for which he shall be chosen.

11 4. The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

12 5. The Senate shall choose 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.

13 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.

14 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.

15 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 choosing Senators.

16 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.

17 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.

18 2. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

19 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 the desire of one-fifth of those present, be entered on the journal.

20 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.

21 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.

22 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.

23 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.

24 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 (Sundays 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.

- 25 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 re-passed 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.

The Congress shall have power,—

- 26 1. To lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare, of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;
- 27 2. To borrow money on the credit of the United States;
- 28 3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;
- 29 4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States:



- 30 5. To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures;
- 31 6. To provide for the punishment of counterfeiting the securities and current coin of the United States;
- 32 7. To establish post offices and post-roads;
- 33 8. To promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries;
- 34 9. To constitute tribunals inferior to the Supreme Court;
- 35 10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;
- 36 11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;
- 37 12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years.
- 38 13. To provide and maintain a navy;
- 39 14. To make rules for the government and regulation of the land and naval forces;
- 40 15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;
- 41 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;
- 42 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,—
- 43 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.

## SECTION 9.

44 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.

45 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.

46 3. No bill of attainder, or *ex-post-facto* law, shall be passed.

47 4. No capitation or other direct tax shall be laid, unless in proportion to the *census* or enumeration hereinbefore directed to be taken.

48 5. No tax or duty shall be laid on articles exported from any State.

49 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.

50 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.

51 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.

52 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.

53 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 control of the Congress.

54 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.

55 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 :—

56 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.

(The following paragraph, 57, is the twelfth Article of Amendments, and supersedes the clause originally inserted here. *See Townsend's Analysis of Civil Government.*

57 3. 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 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.

58

4. The Congress may determine the time of choosing the Electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

59

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.

60

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.

61 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.

62 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.

63 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.

64 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.

65 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.

66 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.

67 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.

68 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 behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

### SECTION 2.

69 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 admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State, between citizens of different States, between citizens of the same

State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens, or subjects.

70 2. 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.

71 3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed: but, when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

### SECTION 3.

72 1. 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.

73 2. The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

## ARTICLE IV

### SECTION 1.

74 Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

### SECTION 2.

75 1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

76 2. A person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in



another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

77 3. No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

### SECTION 3.

78 1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress.

79 2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory, or other property, belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.

### SECTION 4.

80 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 can not be convened), against domestic violence.

## ARTICLE V.

81 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.

## ARTICLE VI.

82 1. All debts contracted, and engagements entered into before the adoption of this Constitution, shall be as valid against the United States, under this Constitution, as under the Confederation.

83 2. This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land ; and the judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding.

84 3. The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution ; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

## ARTICLE VII.

85 The ratification of the Conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.



## AMENDMENTS TO THE CONSTITUTION.

The following are the Articles of Amendments, which have been ratified and adopted since the year 1790, and are to all intents and purposes a part of the Constitution of the United States.

## ARTICLE I.

86 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.

## ARTICLE II.

87 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.

## ARTICLE III.

88 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.

## ARTICLE IV.

89 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.

## ARTICLE V.

90 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 offense, 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.

## ARTICLE VI.

91 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 defense.

## ARTICLE VII.

92 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.

## ARTICLE VIII.

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

## ARTICLE IX.

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

## ARTICLE X.

95 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.

## ARTICLE XI.

96 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.

(As the subject-matter of the twelfth Article of Amendments refers entirely to the election of the President and Vice-President of the United States, it is inserted in Article II of the Constitution, constituting paragraph 57, and is omitted here.)

## ARTICLE XIII.

97 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.

2. Congress shall have power to enforce this article by appropriate legislation.

## ARTICLE XIV.

98 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.

99 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.

100 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.

101 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 and 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 or emancipation of any slave; but all such debts, obligations, and claims, shall be held illegal and void.

5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

## ARTICLE XV.

102 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.

2. The Congress shall have power to enforce this article by appropriate legislation.

## CHRONOLOGY OF THE AMENDMENTS TO THE CONSTITUTION.

The first ten Articles of Amendments were proposed by Congress in 1789, at their first session ; and, having received the ratification of the legislatures of three-fourths of the several States, they became a part of the Constitution December 15, 1791.

The eleventh Article was proposed by Congress in 1794. President Adams declared in his message, Jan. 8, 1798, that it had received the ratification of the constitutional number of States, and was therefore a part of the fundamental law of the land.

The twelfth Article of Amendments was proposed by Congress at their session in 1803, and received the ratification of the requisite number of States during the following year, and became part of the Constitution of the United States.

The thirteenth Article of Amendments was proposed at the second session of the thirty-eighth Congress, passing the Senate in 1864, and the House in 1865. William H. Seward, then Secretary of State, officially announced to the country, Dec. 18, 1865, that it had been ratified by three-fourths of the States, and was therefore a part of the supreme law of the land.

The fourteenth Article of Amendments was proposed by Congress in 1866. William H. Seward, then Secretary of State, announced July 28, 1868, that it had been ratified by the legislatures of the requisite number of States, and had, therefore, become a part of the Constitution of the United States.

The fifteenth Article of Amendments was proposed by Congress in 1869. Hamilton Fish, then Secretary of State, announced March 30, 1870, that it had been ratified by the requisite number of States, and was, therefore, a part of the Constitution of the United States.



## QUESTIONS.

1. In the Preamble, how many reasons are given for the establishment of the Constitution?
2. In what order are they given?
3. Into how many Articles is the original Constitution divided?
4. How many sections in the first Article?
5. In the first section, how many clauses?
6. How many in section 2?
7. How many in each of the other sections of this Article, respectively?
8. How many sections in Article II?
9. How many clauses in Section 1 of this Article?
10. How many clauses in Section 2 of Article II?
11. How many in each of sections 3 and 4?
12. How many sections in Article III?
13. How many clauses in section 1?
14. How many in section 2?
15. How many in section 3?
16. How many sections in Article IV?
17. How many clauses in section 1?
18. How many in each of the others respectively?
19. How many sections and clauses in Article V?
20. How many clauses in Article VI?
21. How many clauses in Article VII?
22. How many Amendments to the Constitution have been adopted?
23. When were the first ten Articles declared to be a part of the Constitution?
24. When was the eleventh?
25. When, the twelfth?
26. When, the thirteenth?
27. When, the fourteenth?
28. When, the fifteenth?
29. Into how many paragraphs are the Constitution and Amendments divided?



# BLACKBOARD EXERCISE.

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## *BRANCHES.*

- I. Legislative—Law-making.
- II. Executive—Law-enforcing.
- III. Judicial—Law-interpreting.

## CHAPTER VI.

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### LESSON 6.

#### *BRANCHES OF GOVERNMENT.*

THE constitution of any country, whether written or traditional, is the fundamental law of that country; that is, the highest law by which the country professes to be governed. If any law is made in violation of that fundamental law it is of no force whatever, and is, to all intents and purposes, null and void. The history of different countries shows that legislatures have sometimes attempted to pass such laws, but they have been set aside and declared inoperative by the law-interpreting branch of the government.

All free government is administered through three distinctive and separate branches. These are:—1. The legislative, or law-making power; 2. The executive, or law-enforcing power; 3. The judicial, or law-interpreting power. In the United States the first is vested in a Congress, which consists of a Senate and House of Representatives; the second, in a President of the United States; and the third, in the Federal Courts of Law.

No free government can exist on earth in which the administration of its powers and functions is not distributed. If a single individual may assume to make the laws, to execute and interpret the same, he becomes a despot, and his government a despotism. Such a concen-

tration of authority in one man is utterly inconsistent with the liberty of his people.

If this combination of power be centered in any number of persons, the character of the government will be the same. One or more persons might safely be trusted with any one of these high prerogatives ; but the danger consists in the concentration of *all* in the same hands.

All writers on free government agree that the legislative, the executive, and the judicial powers should be kept as separate and distinct as possible. It is hardly possible, however, for human wisdom to devise a plan by which they can be kept *entirely* separate in the administration of government.

This has been attempted by the wisest and best of minds, but has failed. Not one of all the American States has succeeded ; though, in some instances, they may have done all that finite wisdom could accomplish. But in all cases, without a single exception, there has been a partial mixture of these powers.

In several of the States, for instance, the executive is elected by the legislature if no one receives a majority-vote by the people. In South Carolina, until recently, he was elected by the legislature without any attempt at an election by the people.

In nearly all of the States the judicial officers are impeachable by one or both branches of the legislature. In some of the States the officers of the judiciary are appointed by the governor and the legislature, or one branch of that body.

In some, the governor may veto any act passed by the legislature ; after which, in order that the act so vetoed may become a law, it must be repassed by a vote of two-thirds of both houses.

In some States the judicial officers are elected by the people, but removable on the address of one or both

branches of the legislature. In others they are removable by one or both branches, on the address of the executive. In still others the judicial officers are appointed by one or both branches of the legislature, and removable by one branch on impeachment by the other.

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## QUESTIONS.

1. What is meant by the constitution of a country?
2. Of what force is a law that is contrary to the constitution?
3. What have legislatures sometimes done?
4. By whom are such laws declared inoperative?
5. Through how many, and what branches are free governments administered?
6. In whom are these branches respectively vested in the United States?
7. What is the distribution of governmental powers?
8. What is said of a despot and despotism?
9. In what do all writers on free government agree?
10. What difficulty is here mentioned?
11. What is said of the separation of these powers in the American States?
12. How are judicial officers impeachable in most of the States?
13. How are the officers of the judiciary appointed in some of the States?
14. How are the judicial officers elected, and how removable in some of the States?

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## LESSON 7.

### *BRANCHES OF GOVERNMENT—Continued*

In fact, there is no such thing as a complete and absolute separation of the three departments from each other. And all that is intended, in speaking of the three branches being kept separate and distinct, is that the powers and

duties properly belonging to any one branch or department shall not be interfered with or administered by either of the others ; that neither shall possess a controlling influence over the others in the performance of their respective duties.

In order that there may be official independence, it is necessary "that the legislative, executive, and judiciary powers shall be kept as separate from, and independent of, each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the Constitution in one indissoluble bond of unity and amity.

The Constitution of the United States aims to separate the three departments as widely as possible, and to render them as independent, the one of the others, as the complicated nature of the subject will permit. The government of the United States is a representative government ; and there is far less danger to liberty arising from the partial mixture of these powers in this country, than in a government of less direct responsibility to the people.

These three branches of the American government are located and exercised in the City of Washington, the capital of the nation. The President resides there during the term for which he is elected. He lives in a mansion known as the White House, built and kept constantly furnished at the expense of the nation. In this mansion he exercises the duties of his office during the period of his administration.

In another part of the city is an immense building covering several acres of ground, called the Capitol of the nation, erected at a cost of some twelve millions of dollars. In this magnificent edifice are numerous rooms and offices for the convenience of the government. But by far the largest is that which is known as the House of Representatives. The assembly of men who occupy this

hall during the session of Congress are called Representatives. They are elected by the people of their respective congressional districts in the several States, and are sent here to assist in making the laws of the nation. No bill can become a law until it has received the approval of a majority of this body of men. By the theory of our government all the people of the several States are present in this assembly in the person of their respective representatives. When all the Representatives are present the number is more than three hundred ; and these constitute one division or portion of the law-making power.

In another part of this immense edifice is a much smaller room, known as the Senate Chamber. This is occupied by the Senators. Of these there are two from each State, whether the State be large or small, and, therefore, when the Senate Chamber is full there are seventy-six members, as we have at the present time thirty-eight States in the Union.

The Senators are not elected by direct vote of the people, but are chosen by the State legislatures for the term of six years. No bill can become a law unless approved by a majority of the votes of this body as well as the House of Representatives. Thus each House is so far a check upon the other against hasty legislation, as to insure full and careful deliberation in the passage of the laws.

In still another part of the Capitol is the Supreme Court Room. In this room the Judges of the Supreme Court hold one term a year for the correct interpretation and application of the laws of the land. If any unconstitutional law is passed by Congress, and sanctioned by the President, this body has the power to declare that law utterly void ; after which it is a dead letter in the statute book. Thus each branch of the government exercises a salutary restraint on the others, effectually securing the safety of human rights.



## QUESTIONS.

15. What is intended by a complete separation of these branches or powers ?
16. What is necessary to official independence ?
17. With respect to this, what is the aim of the Constitution of the United States ?
18. What kind of a government is that of the United States ?
19. Where are the branches of our government located and exercised ?
20. What is the name of the house in which the President resides ?
21. What do we find in another part of the city ?
22. Which is the largest room of the Capitol ?
23. By whom is this room occupied ?
24. By whom are they elected, and for what purpose ?
25. What is the theory of our government with respect to these persons ?
26. Where is the Senate Chamber ?
27. How many Senators are there from each State ?
28. How many in all ?
29. By whom are these Senators elected ?
30. How is nasty legislation prevented ?
31. What other room in the Capitol is mentioned ?
32. By whom, and for what purpose, is this room occupied ?

## CHAPTER VII.

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### LESSON 8.

#### *PREAMBLE TO THE CONSTITUTION OF THE UNITED STATES OF AMERICA.*

WE, the people of the United States,

1. In order to form a more perfect Union ;
2. Establish justice ;
3. Insure domestic tranquillity ;
4. Provide for the common defense ;
5. Promote the general welfare ; and
6. Secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

The Preamble is no part of the Constitution, but is a key to that document. The Preamble sets forth the purposes and objects for which the Constitution was formed, and to secure which it was offered to the people for their ratification and adoption.

As stated elsewhere the union of the States had been very imperfectly formed, and even more imperfectly sustained. It was entirely deficient in every particular mentioned in the Preamble.

The following were the more prominent defects of the Union as it existed at the time this Constitution was formed, as given by an eminent jurist of a later day :

- 1st. There was an utter want of all coercive authority

in the Continental Congress to carry into effect any of their constitutional measures.

2d. There was no power in the Continental Congress to punish individuals for any breach of their enactments.

3d. They had no power to lay taxes, or to collect revenue for the public service. The power over taxes was expressly and exclusively reserved to the States.

4th. They had no power to regulate commerce, either with foreign nations, or among the several states. It was left, with respect to both, exclusively to the management of each particular State.

5th. As might be expected, the most opposite regulations existed in different States ; and there was a constant resort to retaliatory legislation from their jealousies and rivalries in commerce, in agriculture, or in manufactures. Foreign nations did not fail to avail themselves of all the advantages accruing from this suicidal policy, tending to the common ruin.

6th. "For want of some singleness of power—a power to act with uniformity, and one to which all interests could be reconciled—foreign commerce was sadly crippled, and nearly destroyed."

7th. The country was deeply in debt, without a dollar to pay, or the means even to draw a dollar into the public treasury ; and what money there was in the country was rapidly making its way abroad.

8th. Great as these embarrassments were, the States, full of jealousy, were tenaciously opposed to making the necessary concessions to remedy the great and growing evil. All became impressed with the fear that, unless a much stronger national government could be instituted, all that had been gained by the Revolutionary struggle would soon be lost.

To these defects may be added the following also :—

1st. The Congress consisted of but one House ; and the

States, large and small, had equal power in that body. When a bill had passed that House, it was the law of the land.

2d. There was no executive officer to enforce the laws, or whose sanction was required in making the laws.

3d. There was no national judicial tribunal to give construction and interpretation to the laws.

4th. Congress had no power to enforce obedience to treaties ; although they could make them, and recommend their observance.

5th. They could borrow money pledging the faith of the Union, but had no positive means of raising a single dollar.

6th. They could declare war, but could not coerce into the field a single soldier.

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## Q U E S T I O N S .

1. What is the Preamble to the Constitution ?
2. What does the Preamble set forth ?
3. What is said of the formation of the Union ?
4. What were the more prominent defects of the Union at the time of the formation of the Constitution as given by an eminent jurist ?
5. What other defects are mentioned ?

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## LESSON 9.

### *PREAMBLE—Continued.*

The first object expressed in the Preamble is, to form a more perfect Union ; that is, a more perfect Union than had existed under the Confederation. The government under the former system had been found wholly defective.

The Union was so imperfect as to be almost unworthy of the name.

As already stated, under the Confederation there was no national judiciary, or system of national courts. The only means of legal redress was through the State courts; and the decisions of the courts of one State were often in direct conflict with the decisions of courts of neighboring States. The necessity of a court of higher authority, whose decisions should command the respect of the nation at large, was everywhere felt and acknowledged. The State legislatures were often led to pass laws favoring their own immediate and respective localities, and their State courts were too ready to give them their sanction.

The third object, as explained in the Preamble, was to insure domestic tranquillity. This means peace among the States. For several years some of the States had been involved in controversies with each other; and in a few instances these domestic dissensions led to bloodshed, and threatened the most alarming consequences. Troops were called out by one State to meet the hostile forces of another in battle array; and even the General Government seemed too weak for the emergency. Disputes of this character, by the Articles of Confederation, were to be left to Congress; but this body was not always in session; and when it was it did not possess the requisite power, and was slow to exercise what it had.

The want of some common tribunal that could act with promptness and commanding authority, was everywhere admitted. A liberty that was not clothed with authority to command peace at home, was clearly more of a curse than a blessing. One of the purposes, therefore, of the Constitution, was the creation of ample power to insure domestic tranquillity.

The common defense was not properly provided for under the Confederation. A people not prepared for war,



and known not to be, will constantly be liable to aggressions from neighboring nations. On the contrary, a nation known to be prepared, will be quite unlikely to be attacked. A weak nation is never formidable, and will never command the respect of its neighbors.

Congress, under the Confederation, as we have seen, could *recommend* but could not *enforce* measures for the common defense. They could not even declare war, nor exercise any of the war-powers, without the concurrence of nine of the thirteen States; nor, even when they had declared war under these restrictions, should they do so, could they force into service a single soldier. Sound statesmanship demanded, therefore, that something should be done to provide more effectually for the common defense. By reference to the war-power in the Constitution, it will be seen that this provision has been made.

To promote the general welfare is another object specified in the Preamble. This duty properly devolves on every national sovereignty. It is indeed, or should be, the primary purpose of every government. The individual States of America had not the means, nor have they now, to secure this desirable object. It requires larger resources than belong to a single State.

From the poverty of language it would be impossible to specify, within any convenient limits, all the powers which a government like that of the United States might at some time find it necessary to exercise, and under some possible emergencies.

And although fears may be indulged in some quarters, that, under a clause of such broad signification, some of the departments, especially the legislative, and perhaps the executive, may overreach and go beyond their prerogatives, yet the ballot is the remedy in the one case, and impeachment in the other.

“To secure the blessings of liberty to ourselves and our



posterity," is the closing language of the Preamble. It is an appropriate climax. It briefly expresses the whole purpose of human government.

"Give me liberty, or give me death!" exclaimed the immortal orator of the Revolution. Without political and religious liberty, life itself would become valueless, and existence a burden; with it, we may have all that is valuable in earthly institutions. For, if a nation enjoys liberty, its citizens have the means of enjoying every other earthly blessing.

But the patriotic authors of the Constitution were not content with this sacred boon for themselves merely; they were earnest to perpetuate this inestimable blessing to the remotest posterity.

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## QUESTIONS.

6. What is the first object expressed in the Preamble?
7. What were the only means of legal redress?
8. What is said of the necessity of a higher court?
9. What were the State legislators often led to do?
10. What is the third object expressed in the Preamble?
11. What had been the condition of the States for several years?
12. To whom were disputes of this character to be referred?
13. What is said of the ability of Congress to settle them?
14. What want was felt on that account?
15. What is the fourth object mentioned in the Preamble?
16. What is said of the necessity of being prepared for war?
17. What is said of the weakness of Congress under the Confederation?
18. What is the fifth object mentioned in the Preamble?
19. What should be the primary purpose of every government?
20. What is said of the inability of States to do this?
21. What is the closing language of the Preamble?

# BLACKBOARD EXERCISE.

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## LEGISLATIVE.

- I. House of Representatives.
  - II. Senate.
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## CHAPTER VIII.

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### LESSON 10.

#### CONGRESS.

THE Congress of the United States is the law-making branch of our government. All the law-making powers are vested in it, and it consists of a Senate and a House of Representatives.

In saying that this is the law-making branch the statement must be taken with this qualification: that if the President of the United States shall officially object to any bill passed by the two Houses, the same must be re-passed by a vote of two-thirds of each branch of that body, or it fails to become a law.

In the Congress are vested all, or nearly all, the powers and attributes of national sovereignty—such as belong to all independent nations.

Among these powers are: 1. To lay and collect taxes,

duties, imposts, and excises ; 2. To borrow money ; 3. To regulate commerce ; 4. To coin money ; 5. To constitute judicial tribunals ; 6. To declare war ; 7. Grant letters of marque and reprisal ; 8. To raise and support armies ; 9. To provide and maintain a navy ; 10. To provide for the calling forth of military forces ; and 11. To admit new States into the Union.

All these powers, and many more, as will be seen in treating of the powers of Congress hereafter, are vested by the Constitution in this branch of the federal government. They must assemble at least once every year, which meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Either or both Houses, on extraordinary occasions, may be required to convene in extra session, on the call of the President of the United States.

The House of Representatives is, in a special sense, that division of the legislative body which represents the *people* of the several States. The members are elected by the votes of the qualified voters of the several State congressional districts. As will be seen hereafter, they are a much more numerous body than the Senate. In many respects they may be compared to the House of Commons in England. The term of its existence, by constitutional limitation, can never extend beyond the period of two years.

We have a new House of Representatives every alternate year, always commencing with the years of odd numbers, and Congress is numbered by the number of times we have had a new House of Representatives. Thus we speak of the fortieth, forty-first, forty-second, and forty-third Congresses, and the numbers of these Congresses correspond to the number of times respectively that the House has been organized.

The Senate is a perpetual body, consisting of two members from each State, chosen by the legislature thereof

for the term of six years. The Constitution requires higher qualifications for membership here than in the other House. The reasons for this will appear hereafter when we reach the analysis of the Senate.

The Senators represent the States *as* states in their sovereign or political capacity. On the floor of the Senate the States, large and small, are equal in political power and influence.

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## QUESTIONS.

1. What is the Congress of the United States?
2. Of what does it consist?
3. What if the President of the United States objects to a bill?
4. What powers are vested in Congress?
5. Will you state some of these powers?
6. How often, and when, shall Congress assemble?
7. What is said of an extra session of Congress?
8. What is the special character of the House of Representatives?
9. How are members elected?
10. To what may they be compared?
11. How long is a Representative term?
12. How often do we have a new House?
13. How are Congresses numbered?
14. What is the Senate?
15. What do the Senators represent?
16. What is the relative power of the States in the Senate?

# BLACKBOARD EXERCISE

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## HOUSE OF REPRESENTATIVES.

- I. How Composed. 3.
- II. Eligibility. {
  - 1. Age. 4.
  - 2. Citizenship. 4.
  - 3. Inhabitancy. 4.
- III. Number of Members. 5.
- IV. How Apportioned. 99.
- V. Enumeration. {
  - 1. When made. 5.
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- VI. By whom Elected. 3.
- VII. Qualifications of Electors. 3.
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- IX. How Vacancies filled. 6.
- X. House Powers. {
  - 1. Legislative. {
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  - 2. Inquisitorial. 7.
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# CHAPTER IX.

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## LESSON 11.

### *HOUSE OF REPRESENTATIVES.*

**T**HE House of Representatives is one branch of the American Congress ; and it assembles at Washington at least once a year to take part in making laws to govern the nation. This body alone cannot make the laws, but is co-ordinate with the Senate in law-making.

#### **I. How Composed. 3.**

The House of Representatives is composed of members elected by the people of the several States. These members are called Representatives because they are supposed to represent the views and wishes of the people who elect them. They act, and speak, and vote as the agent of the people, who are called their constituency.

The people cannot all assemble in one body or convention to make the laws ; and, therefore, they send their agents or representatives to do this business for them. It would be impossible for millions of people to assemble in one convention and make the laws by which they would promise to be governed.

#### **II. Eligibility.** { **1. Age. 4.** **2. Citizenship. 4.** **3. Inhabitaney. 4.**

Eligibility, as here used, signifies the right to hold and enjoy an office or position if properly elected or appointed



thereto. To be eligible to an office one must possess the proper legal qualifications for it.

The conditions of eligibility to the House of Representatives are three: 1. *Age*; 2. *Citizenship*; 3. *Inhabitaney*.

1. *Age*.—This is the first condition of eligibility to membership of the House of Representatives required by the Constitution. The Representative must have attained to the age of twenty-five years.

Before the age required by the Constitution, few men have had sufficient experience and preparation to qualify them for so important a public trust.

2. *Citizenship*.—Another condition of eligibility is that the member must have been a citizen of the United States at least seven years.

The following quotation from the fourteenth Article of Amendment to the Constitution defines the meaning of the word *citizen*:

“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.”

We learn by this extract that a person may be a citizen of the United States, either by birth or by naturalization.

Naturalization is that process by which an alien or foreigner becomes a citizen of the United States. Before the adoption of the Constitution, this whole subject was under the control of the several States, some requiring a longer, and others a shorter period of time for its completion. But under the present Constitution, Congress has exclusive control of the matter; and now, by the laws of that body, it requires five years. These, added to the seven years of citizenship required by the Constitution, make it necessary that a person of foreign birth shall have actually resided in this country at least twelve years before he can

take a seat as a member of the House of Representatives if elected thereto.

This is a period sufficiently long, perhaps, to enable a person of foreign birth to make himself acquainted with our institutions and form of government, and to demonstrate his attachment to our country.

3. **Inhabitaney.**—The third condition of eligibility is that the member must be an inhabitant of that State in which he shall be chosen. States having more than one member are divided into congressional districts. A person may reside in one district and yet be elected by and for another district of the same State. But this is not usual, though it has been done in some instances. If a person has been elected a member in one congressional district, and removes to another, or even to another State, this removal does not deprive him, during the term for which he was elected, of his seat in the House.

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## QUESTIONS.

1. What is the House of Representatives ?
2. How does this branch stand related to the Senate in law-making ?
3. How is the House composed ?
4. Why are the members called Representatives ?
5. Why do the people send Representatives to the House ?
6. What does eligibility here signify ?
7. What are the conditions of eligibility to the House ?
8. What does the word citizen mean ?
9. How many ways of becoming a citizen of the United States ?
10. What is naturalization ?
11. In whose hands was this subject before the adoption of the Constitution ?
12. Under whose control is this matter now ?
13. How long time does it require for a person of foreign birth to become eligible to the House ?
14. What is the third condition of eligibility ?
15. How are the States divided ?

## LESSON 12.

*HOUSE OF REPRESENTATIVES—Continued.***III. Number of Members. 5.**

On this subject the Constitution says, "The number of Representatives shall not exceed one for every thirty thousand ; but each State shall have at least one Representative."

When the Constitution was formed in 1787, the population of the States was not known, with anything like exactness, to the Convention that framed that document. It was provided, however, by the Constitution, that the population should be ascertained within a few years by actual count or enumeration.

The number of Representatives in the first Constitutional Congress was sixty-five ; this number, it was presumed, gave one member to about thirty thousand inhabitants.

As the population of the United States should increase, of course the number of members in proportion to the inhabitants represented, must be diminished. If not, the number of members in the House of Representatives would become too great, in the course of a few years, for the convenient transaction of business. Hence, once in ten years, Congress fixes by law, the proportion of representation to population. The necessity for this is manifest. For instance, the population of the United States is now, 1882, over fifty millions. Were we now to have one Representative for every thirty thousand, the House would consist of sixteen hundred and sixty-six members ; a number far beyond that of any legislative body in the world.

The number of members is fixed by a law of Congress,

once in ten years, and their appointment is based on the last census. The number fixed, in accordance with the Tenth Census, for the period of ten years from March 4, 1883, is 325, being 1 for each 151,911 persons. Using this number as a common divisor, and dividing the population of each of the States by it, the quotient will be its number of members by *ratio*. But in each instance by this process, there will be a remainder, larger or smaller. To those States having the larger remainders additional members are allowed, thus making the total of all the States 325. Each State is divided into Congressional districts by its legislature. But in case the number of representatives of a State is increased and the legislature fails to redistrict the State before an election occurs, the additional member is elected *at large* on the general State ticket. In case the number is diminished and the State is not redistricted, the entire number of representatives is elected *at large*.

Delaware and Nevada have each a population less than 151,911. But they have each one member under the constitutional provision that "each State shall have at least one representative."

The number of members will be augmented, of course, when new States are admitted into the Union.

Each organized territory is allowed one *delegate*, who may speak, but not vote, on any question.

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## QUESTIONS.

16. What does the Constitution say on this subject ?
17. What was known about the population of the States when the Constitution was formed ?
18. What was provided by the Constitution in reference to this ?
19. How many members were in the first Constitutional Congress ?
20. As the population of the United States should increase, what must be done ?

21. Why must this be done?
22. By whom, and how often, is the number of members fixed?
23. What is the present number?—how apportioned and allotted among the States?
24. What members are called members *at large*?
25. How are members *at large* elected?
26. What if new States are admitted into the Union?
27. What is said of organized Territories?

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## LESSON 13.

### *HOUSE OF REPRESENTATIVES—Continued*

#### IV. How Apportioned. 99.

When the Constitution was adopted, slavery existed in every State excepting Massachusetts. As a matter of compromise between the North and South, and after long and earnest debate in the Convention that framed that document, the following clause was accepted as the rule for determining the representative population:—

“Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.”

The last clause of this period, “three-fifths of all other persons,” refers to slaves. Three-fifths of these were to be counted as representative population.

It will be observed that the Constitution nowhere mentions the word slave or slavery. Whenever it is necessary to allude to that class of persons, a definition is adopted instead of the word itself. This was deliberately intended



by the authors of that instrument, feeling that it would be a stain upon their work. The word slavery occurs in the thirteenth Article of Amendments, and there only for the purpose of abolishing that institution throughout the United States, and in all places subject to their jurisdiction. This Amendment was proclaimed by the Secretary of State December 18, 1865, to be a part of the supreme law of the land. From that day, therefore, slavery ceased to exist throughout the United States and their territories.

By a part of the second clause of the fourteenth Article of Amendments, which was subsequently adopted July 28, 1868, the count of representative population was essentially modified. From the time of the adoption of that Article, representatives are to be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State excluding Indians not taxed.

By a subsequent provision of the same clause, if any State shall disfranchise the male negro population, being twenty-one years of age and citizens of the United States, and prohibit their voting at the usual elections, the basis of representation is to 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.

By the fifteenth Article of Amendments, subsequently adopted March 30, 1870, the States are forbidden to deny or abridge the right of citizens of the United States to vote, on account of race, color, or previous condition of servitude.

Thus it will be seen that the entire population, and the representative population, excluding Indians not taxed, are identical.



## QUESTIONS.

28. How many States held slaves at the adoption of the Constitution?
29. How were representatives then apportioned?
30. To whom does "three-fifths of all other persons" refer?
31. Where, and for what purpose, does the word slavery occur in the Constitution?
32. When was slavery abolished in this country?
33. How are Representatives now to be apportioned?
34. For what cause is the basis of representation to be reduced?
35. What is the substance of the fifteenth Article of Amendments?

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## LESSON 14.

### *HOUSE OF REPRESENTATIVES—Continued.*

#### V. Enumeration. { 1. When made. 5. 2. How made. 5.

It will be remembered that the Constitution was formed in 1787. In reference to the enumeration it says the actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct.

The enumeration is what is generally known as the census. The primary and leading object for which the census is taken is to equalize representation in the House of Representatives in proportion to the population of the several States. Indeed, this is the only means by which equality by representation can be secured.

1. **When made.**—The Constitution requires that the census shall be taken once in ten years. By Act of Congress it was taken the first time in 1790; and it has been taken decennially ever since, during the first year of every

regular decade. Thus 1800, 1810, 1820, etc. It has, therefore, already been taken ten times.

2. **How made.**—The manner of taking the census is under the control of Congress, to be fixed from time to time by law. Since the organization of the Department of the Interior (1849), that department has had general supervision of the matter. The Tenth Census was by law placed under the immediate direction of the Superintendent of the Census, who was made the head of the Census Office. Supervisors had charge of limited districts, one or more in each State, under whose direction the enumerators canvassed their respective subdistricts during the month of June, 1880.

The duties of these enumerators consisted in visiting personally every dwelling-house and family within the limits of their respective jurisdictions, and propounding to some member of the family, of suitable age and intelligence, such questions as are required by Act of Congress.

These questions relate not only to the number of inhabitants, but their ages, sex, color, ability to read and write, facts relating to agriculture, manufactures, commerce, resources of the country, its productions, and, in fact, every thing that may be necessary to give a general view of the condition of the United States.

Nor is it left to the discretion of persons questioned whether they will answer these interrogatories. They are *compelled* to answer under a penalty of thirty dollars for each refusal, and the person so refusing can be imprisoned until the penalty is paid; and a new refusal can be followed by a new penalty and imprisonment.

### VI. By whom Elected. 3.

Representatives are elected by the people of the several States. This is required by the express language of the

Constitution. The word *people*, however, does not include all persons, men, women, and children, but includes those persons only who are qualified voters.

This provision of the Constitution met with very strong opposition in the convention that framed that document. Some of the ablest men of that body contended that it was unsafe to allow the people to elect, by direct vote, their own representatives to Congress. This class of members earnestly contended that it would be an excess of democracy most dangerous in the hands of the people; that they were not qualified to exercise this prerogative. By the members holding this view it was proposed that these elections should be referred to the several State legislatures. But at length the provision passed by a very close vote. Had the proposition prevailed, to elect Representatives by State legislatures, it is highly probable that the Constitution would have been rejected by the people.

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## QUESTIONS.

36. When was the Constitution formed?
37. What does it say of enumeration?
38. What is the leading object for which the census is taken?
39. How often must the census be taken?
40. When was the first census taken?
41. How many times has it been taken?
42. Who has the control of this matter?
43. What department has the supervision of this matter?
44. Where has that department placed the execution of it?
45. How do the marshals divide their districts?
46. How do the census-takers do this business?
47. What penalty attaches to a refusal to answer the officer's questions?
48. By whom are Representatives elected?
49. Who are these people?
50. What is the substance of the discussion in the Convention on this subject?

## LESSON 15.

*HOUSE OF REPRESENTATIVES—Continued.***VII. Qualifications of Electors. 3.**

The word electors here means voters. The Constitution requires that the electors, or voters for members of the House of Representatives, shall have the qualifications requisite for the voters, or electors of the most numerous branch of the State Legislature.

A State Legislature, like the Federal Congress, consists of two Houses, one of which is called the Senate, and the other of which is known as the Assembly, House of Delegates, or House of Representatives,—in one State by one name, in another by another. The Senate is the least numerous branch, and is frequently called the upper house; the other branch is the most numerous, and is often called the lower house.

In some States higher qualifications are required to vote for members of the upper than of the lower House. But by the provision of the Constitution just referred to, no State has the right to require any higher qualification of an elector to vote for a member of the House of Representatives than it requires to vote for a member of its own lower House.

For instance, the Senate of the State of New York consists of thirty-two members, the Assembly of one hundred and twenty-eight—the Assembly being the most numerous branch of the State Legislature. Now, if the State of New York were to require a property qualification to vote for a State Senator, and no such qualification to vote for a member of the other House, that State could not require a property qualification to vote for a member of the national House of Representatives. Whoever may

vote for a member of Assembly in New York, may enjoy the right to vote for a representative in Congress. Each State, therefore, determines this whole question for itself. Were women allowed to vote for members of Assembly in the State of New York, they must also be allowed to vote for members of the lower House of Congress.

Members of the House of Representatives are elected in the several States by congressional districts. When it has been ascertained how many members each State is entitled to, the legislatures of the several States divide them respectively into as many congressional districts as they are each entitled to members. These congressional districts are numbered, for convenience, 1st, 2d, 3d, etc., and are known by their numbers.

The electors of each district vote for but one candidate, though that candidate need not necessarily be a resident of the voter's district. He must, however, as we have seen, be an inhabitant of the State in which he shall be chosen.

### VIII. When Elected. 3, 15.

The Constitution says that Representatives shall be chosen every second year—that is, once in two years. The Representative term commences the fourth day of March next after the election of the members, and continues for two years.

The day of election of Representatives has not, heretofore, been the same in the several States. The time has been regulated by each State Legislature for its own jurisdiction. But by paragraph 15 of the Constitution the time of holding elections for Representatives may be determined by Congress.

Under this authority they passed a law February 2, 1872, fixing the time for election of Representatives; and by this law the time is the same throughout the



United States, except in a few States where another day is fixed by the State Constitutions.

In all other States and Territories the election must be held on the first Tuesday after the first Monday in November, the year of the election.

### IX. How Vacancies filled. 6.

The Constitution says: "When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies."

The writ of election is directed to the proper officer of the congressional district in which the vacancy occurs. The writ commands that the election shall be held at a time therein named, and it is the duty of the officer to whom it is directed to give notice thereof. The election held in pursuance of such writ is called a special election.

The Representative elected to fill a vacancy, serves only the unexpired portion of the term for which his predecessor was elected. Vacancies can only happen by death, resignation, or expulsion of the incumbent from his seat in the House.

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## QUESTIONS.

51. What does the word electors mean?
52. What must be the qualifications of voters?
53. Of what do State Legislatures consist?
54. Which is the most numerous branch?
55. What qualifications has a State a right to require of voters for a Representative in Congress?
56. Give the substance of the illustration.
57. What is said about congressional districts?
58. How often are members chosen?
59. When does a Representative term begin, and how long continue?



60. By whom has the time for electing Representatives been determined heretofore ?
61. By whom is it now determined ?
62. Hereafter, on what day is the election to take place ?
63. Where is the election to be held on that day ?
64. How are vacancies filled ?
65. What is said about this writ of election ?
66. How may vacancies occur ?

## LESSON 16.

### *HOUSE OF REPRESENTATIVES—Continued.*

<b>X. House Powers.</b>	{	<b>1. Legislative.</b>	{	1. Concurrent. 2.
				2. Exclusive. 23.
		<b>2. Inquisitorial.</b>		7.
		<b>3. Elective.</b>	{	1. House Officers. 7.
				2. President U. S. 57.

1. *Legislative.* — 1. *Concurrent.*—The House is co-ordinate with the Senate in general legislation. There are special powers peculiar to each House ; and these are so clearly defined in the Constitution as to take away all ambiguity. There can be no mistaking the powers of one House for those of the other. But in the general ordinary business of law-making the Houses are co-ordinate in legislative power.

2. *Exclusive.*—Constitution : “All bills for raising revenue shall originate in the House of Representatives.”

It will be seen, therefore, that the power for originating bills which may result in a tax upon the people belongs *exclusively* to the House.

This body, as has been stated, is constituted of the more immediate representatives of the people ; and, as the people are to pay the taxes, if any are imposed, it would seem fit and proper that their representatives should be the prime movers in any measures that require money to prosecute them.

2. **Inquisitorial.**—The House of Representatives has the sole power of finding, or preferring articles of impeachment. An impeachment is a solemn and specific accusation brought against a public officer, drawn out in due form, charging him with treason, bribery, or other crimes and misdemeanors.

It is in the nature of an indictment, being only *prima facie* evidence of guilt—sufficient, however, to put the accused on trial at the bar of the Senate. Although it requires a majority of two-thirds of the Senate to convict the accused, it requires only a numerical majority to prefer the impeachment by the House.

It would be in the highest degree improper for the accusing party to try and pronounce upon the guilt of the accused. When originating charges of impeachment, the House acts as the grand inquest of the nation. The Senate alone decides on the innocence or guilt of the accused.

In England the power of impeachment is vested in the House of Commons, the people's branch of the legislative department; and the trial of impeachment belongs to the House of Lords, to which our Senate is somewhat analogous. (See *Townsend's Analysis of Civil Government*.)

3. **Elective.**—1. *House Officers.*—The Constitution says: The House shall choose their Speaker and other officers. The Speaker is the presiding officer of the House. He is chosen from among the members themselves, being himself a Representative. It is his duty to preside over the deliberations of the House, to keep order, and to appoint standing committees. The other officers are a clerk, sergeant-at-arms, postmaster, and doorkeeper. These officers are not members of the House.

2. *President of the United States.*—Among the peculiar and exclusive powers of the House of Representatives is

that of choosing a President of the United States in a certain contingency.

When the Electors of President and Vice-President fail to elect a President by a majority of all the Electors appointed by the people for that purpose, the election of the President devolves on the House. This has occurred twice since the adoption of the Constitution.

The first instance of an election by the House occurred in 1801. The two opposing candidates were Thomas Jefferson, of Virginia, and Aaron Burr, of New York. Mr. Jefferson was elected on the thirty-sixth ballot.

The second instance of the kind occurred in 1825. At that time there were three candidates for the office, whose names were before the House. These were John Quincy Adams of Massachusetts, Andrew Jackson of Tennessee, and William H. Crawford of Georgia. Mr. Adams received a majority of the votes on the first ballot, and was declared elected. He was the sixth President of the United States.

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## QUESTIONS.

67. How are House-Powers divided and sub-divided?
68. What is said about the special powers of the two Houses?
69. What bills must originate in the House?
70. What is an impeachment?
71. What is said about impeachments in England?
72. What are the position and duties of the Speaker?
73. What are the other officers of the House?
74. In what case does the House elect a President of the United States?
75. How many times, and when, has this occurred in our history?

# BLACKBOARD EXERCISE.

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## SENATE.

- I. How Composed. 8.
- II. Eligibility.
  - 1. Age. 10.
  - 2. Citizenship. 10.
  - 3. Inhabitancy. 10.
- III. Senatorial Term. 8.
- IV. By whom Chosen. 8.
- V. When Chosen. 9.
- VI. How Classed.
  - 1. Expires second Year. 9.
  - 2. Expires fourth Year. 9.
  - 3. Expires sixth Year. 9.
- VII. How Vacancies filled.
  - 1. Legislature. 9.
  - 2. State Executive. 9.
- VIII. Vote. 8.
- IX. Presiding Officer.
  - 1. Vice-President U. S. 11.
  - 2. President *pro tempore*. 13.
  - 3. Chief Justice. 13.
- X. Senate Powers.
  - 1. Legislative. 2.
  - 2. Executive.
    - 1. Appointments. 64.
    - 2. Treaties. 64.
  - 3. Elective.
    - 1. Senate Officers. 12.
    - 2. Vice-Presid. U. S. 57.
  - 4. Judicial. 13.

# CHAPTER X.

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## LESSON 17.

### *SENATE.*

#### I. How Composed. 8.

**T**HE Senate of the United States is composed of two Senators from each State. While in the House the number of Representatives for each State is proportioned to the population thereof, and consequently enjoy political power in that proportion, no such distinction exists in the Senate; here the States, large and small, are equal. This is an unalterable provision of the Constitution, as will be seen by the closing language of Article V of that document, which says: "No State, without its consent, shall be deprived of its equal suffrage in the Senate."

The composition of the Senate is the result of compromise between the larger and smaller States represented in the Constitutional Convention. Under the Confederation, it will be remembered, the representative power in Congress was the same in all the States; and that body consisted of but one House. The small State of Rhode Island had one vote, and the great State of Virginia had no more. The small States were tenacious of this power, and were reluctant to allow any encroachment on their sovereignty.

The large States yielded one point in the compromise, and the small States another. The large States consented



to equality in the Senate, and the small States to representation in the House in proportion to population. And as every bill, before it can become a law, must pass both Houses of Congress, the rights of the smaller States are not likely to be compromised in the legislative departments.

**II. Eligibility.** { **1. Age.** 10.  
                           { **2. Citizenship.** 10.  
                           { **3. Inhabitancy.** 10.

1. **Age.**—The age of a Senator must be at least thirty years. By reference to the age required for membership in the other House, it will be seen that there is a difference of five years; a man being eligible to a seat in that House at twenty-five years. It is considered that, at least in some respects, the duties of a Senator are more responsible than the duties of a member of the House of Representatives.

This may be inferred from the following :

1st. There can be but two Senators from one State, while the number of Representatives will depend on the population. The State of New York, for instance, can have but two Senators, but at present, 1875, has thirty-three members of the other House.

2d. The responsible duty of trying all impeachments devolves on the Senate; and from their decision there is no appeal.

3d. On the Senate rests the grave responsibility of deciding on the fitness of executive nominations to office.

4th. In the Senate is vested, jointly with the executive, the prerogative of treaty-making.

2. **Citizenship.**—Any person, born or naturalized in the United States, and subject to the jurisdiction thereof, is a citizen. The period of citizenship here required, before a person can be eligible to a seat in the Senate, is nine years. This refers to persons of foreign birth, who



must go through the process of naturalization, in order to become citizens.

The laws of Congress require five years' residence before an alien can become naturalized, and the Constitution nine years' citizenship before he can hold the office of United States Senator ; making fourteen years' residence necessary before he is eligible to a seat in that body.

**3. Inhabitancy.**—A Senator of the United States must be an inhabitant of that State for which he is chosen.

But let it be observed, that necessity of inhabitancy is limited, to the time *when chosen*. A Senator chosen for New York, for instance, does not vacate his seat in the Senate by changing his residence to any other State during the term for which he was elected. It might be in the highest degree proper that he should resign ; but that is a matter within his own discretion.

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## QUESTIONS.

1. How is the Senate of the United States composed ?
2. What is the provision of the Constitution with reference to this ?
3. Of what is the composition of the Senate the result ?
4. What is said of the power of Congress under the Confederation ?
5. What are the conditions of eligibility to the Senate ?
6. In what respects are the duties of a Senator more responsible than those of a member of the other House ?
7. What are the conditions of citizenship ?
8. What time is required for naturalization ?
9. What is said of the necessity of continuous inhabitancy ?

## LESSON 18.

*SENATE—Continued.*

## III. Senatorial Term. 8.

10 The full Senatorial term is six years—a period three times as long as a term in the other House. The Senatorial term was a subject of earnest debate in the Convention, and on which, at first, there was great difference of opinion.

2 The terms of three, four, five, six, seven, and nine years were severally proposed, and each had its advocates. Several members were in favor of extending the term for life, or during good behavior.

All were in favor of a term sufficiently long to insure to the office dignity, stability, and independence. Six years was probably not the choice of half the members of the Convention; but that term was adopted as a compromise of the extremes.

It was the intention of the authors of the Constitution that the Senate should be a far more grave, dignified, and aristocratic body than the House.

## IV. By whom Chosen. 8.

The Senators are chosen by the Legislatures of their respective States. They represent their States in their *political* capacity, and are not regarded as representatives of the *people*. In the other House, a member, as we have seen, represents the people of his congressional district. The Senator represents the whole State, by which he is chosen through its Legislature. Therefore, State Legislatures claim the right to instruct their Senators in regard to the course which they wish them to take on great national questions, even to the extent of dictating how they shall vote on such questions.

As the Legislature appoints the Senator they consider him as their immediate agent, or servant, and properly subject to their dictation and authority.

They often *request* the Representative—but *instruct* the Senator.

### V. When Chosen. 9.

By provision of the Constitution one-third the number of Senators are chosen every second year.

This must necessarily be so, on account of the mode of classifying the Senators which the Constitution prescribes, and which it directs to take place at the first organization of the Senate under the new government.

Only one-third of the Senators being chosen every second year, and but one-third retiring every second year, the Senate must always be constituted of members one-third of whom have had at least four years of legislative experience, and of another third who have had at least two.

By Act of Congress, passed July 26, 1866, relating to the election of United States Senators by the State Legislatures, it is provided :

1st. That each House shall, by a vote *vivá voce* of each member present, on the second Tuesday after the meeting and organization thereof, name a person for Senator.

2d. On the day following the two Houses shall meet in joint assembly ; and, if the same person shall have received a majority of all the votes cast in each House, he shall be declared duly elected Senator of the United States.

3d. If no person has received such majorities, then the joint assembly shall choose by a *vivá voce* vote a person for Senator ; and the person who shall receive a majority of all the votes of the joint assembly, a majority of the

members of each House being present, shall be declared duly elected.

4th. If such Senator is not elected on the first day, the joint assembly shall meet, and take at least one vote per day, during the entire session of the Legislature, or until a Senator shall be elected.

5th. In relation to vacancies, the act provides that when one exists at a meeting of the Legislature, the same proceedings shall be had on the second Tuesday after their meeting and organization.

6th. When a vacancy shall happen during the session of the Legislature, like proceedings shall be had, beginning with the second Tuesday after notice of such vacancy shall have been received.

7th. The Governor of the State shall certify the election of a Senator to the President of the United States.

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## QUESTIONS.

10. What is a senatorial term ?
11. How does this compare with a term in the other House ?
12. What were the views of the members of the Convention on this subject ?
13. By whom are the Senators chosen ?
14. How does the representation of Senators differ from that of the other House ?
15. Why do legislatures claim the right to instruct Senators ?
16. What portion of the Senators is chosen every second year ?
17. What is the result of this ?
18. When, and by what formality, are Senators elected ?

## LESSON 19.

*SENATE—Continued.*

- VI. How Classed.** { 1. Expires second Year. 9.  
2. Expires fourth Year. 9.  
3. Expires sixth Year. 9.

Constitution : “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.”

By the foregoing provisions of the Constitution it will be seen that the Senate is a perpetual body. This was the intention of the framers of that instrument. The prerogatives with which it is invested, and the duties required of it, render this indispensable. It may be necessary to convene them at any time for the purpose of trying impeachments, confirming executive nominations to office, or concurring with the President in making treaties. Of course there would be times when this could not be done if the Senate were not a perpetual body.

The number of Senators at first was twenty-six, there being thirteen States in the Union, and two Senators from each State. Were each of these Senators to serve for six years, their terms would all expire at the same time. But the plan was, that one-third should retire every second year ; hence the first Congress classified the Senators, and determined by lot who should retire at the end of two years, who at the end of four, and who at the end of six. That classification has been preserved, as nearly as practicable, ever since.

When a new State is admitted into the Union, and it



chooses two Senators, it is determined by lot which shall serve for the short and which for the full term.

**VII. How Vacancies filled.** { 1. By Legislature. 9.  
2. By State Executive. 2.

The language of the Constitution on this subject is as follows :

“ 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.”

1. By the Legislature.—As implied by this language, if the Legislature of the State in which the vacancy occurs is in session when it happens, that body will fill the vacancy. As to when and how they shall fill it, has been explained under the head, in this chapter “ *When Chosen.*”

2. By the Executive.—The Executive is the Governor of the State. He may make temporary appointments to fill vacancies that occur when the State Legislature is not in session.

If the Legislature is in session when the vacancy happens, the Governor has no authority over the matter. Nor can he make an appointment, even for a single day, in anticipation of a vacancy that is soon to occur. He must wait until it has really taken place. This has been decided by the Senate of the United States. Nor can the State Legislature choose a Senator to fill a vacancy, until the vacancy has actually happened.

**VIII. Vote. 8.**

Constitution : “ Each Senator shall have one vote.”

This clause would seem to be superfluous, unless it be remembered that, under the Confederation, each State, whatever the number of its members in Congress, had but



one vote ; and, if less than two members were present, it had no vote.

The States were each allowed from two to seven members ; and, if their delegation was equally divided, they lost their vote. One member was incapable of voting alone.

It was the intention of the Constitution to give equality of suffrage in the Senate ; with the further advantage, that a Senator shall not lose his vote, nor his State go entirely unrepresented, on account of the absence of one of the members from the Senate-chamber.

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## QUESTIONS.

19. How are Senators classed, and when do their terms expire ?
  20. How long does the Senate exist ?
  21. What is the necessity of this ?
  22. How many Senators were in the first Constitutional Congress ?
  23. By what means were they classified ?
  24. What is done when new States are admitted ?
  25. By whom are vacancies filled ?
  26. What has been decided by the Senate in regard to filling vacancies ?
  27. What is the origin of the provision that each Senator shall have one vote ?
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## LESSON 20.

### *SENATE—Continued.*

- IX. Presiding Officer.** { 1. Vice-President U. S. 11.  
 { 2. President *pro tempore*. 12.  
 { 3. Chief Justice. 13.

1. Vice-President.—The Vice-President of the United States is *ex officio*, that is, by virtue of his office,

President of the Senate. He performs the ordinary duties devolving on a presiding officer, except that he does not appoint the standing committees. This exception is proper from the fact that he is not a member of the body over which he presides.

In case of the removal of the President of the United States from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, these duties devolve on the Vice-President; and he becomes President of the United States. In such case, of course, he will not act as presiding officer of the Senate. Nor will he act as President of that body during the trial of the President of the United States on impeachment, should such an event occur.

2. *President pro tempore*.—By the Constitution, the Senate are required to choose a President *pro tempore*, in the absence of the Vice-President, or when that officer shall exercise the office of President of the United States.

The President *pro tempore* of the Senate is sometimes called the Vice-President of the United States—only, however, when the Vice-President has become President. This is often done, doubtless, by way of *courtesy*, but sometimes because he is really thought to be in fact such officer. This, however, is a mistake.

The Vice-President is an officer of the United States, and no such officer can be a member of either House of Congress. The President *pro tempore* of the Senate is a member of that body—the Vice-President is not.

A person may be eligible to the office of Senator, and consequently to the position of President *pro tempore*, though ineligible to the office of Vice-President of the United States. (*See Townsend's Analysis of Civil Government.*)

3. *Chief Justice*.—The President of the United States is removable from office on impeachment by the House and conviction by the Senate. The Senate has the sole

power to try all impeachments. When the President is tried the Chief Justice shall preside.

It would be manifestly improper for the Vice-President of the United States to preside over the trial of the President, whose conviction would result in removal from office. As the Vice-President, in such case, would succeed to the office of President, the former would be directly interested in the conviction of the latter. The President of the United States is the highest officer under our government; and it may be regarded in the highest degree proper and befitting, that, if brought to trial on impeachment, the highest judicial officer should preside over the solemn deliberations of such an august proceeding.

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## QUESTIONS.

28. Who is the presiding officer of the Senate?
29. What are his duties?
30. Why does he not appoint committees?
31. To what other duties may he be called?
32. In what case does he not preside over the Senate?
33. When is the President *pro tempore* chosen?
34. What is the President *pro tempore* sometimes called?
35. Why is he not such officer?
36. When does the Chief Justice preside over the Senate?
37. Why should not the Vice-President preside in such case?
38. Why should the Chief Justice preside?

## LESSON 21.

*SENATE—Continued.*

<b>X. Senate Powers.</b>	{	<b>1. Legislative.</b> 2.
		<b>2. Executive.</b> { 1. Appointments. 64. 2. Treaties. 64.
		<b>3. Elective.</b> { 1. Senate Officers. 12. 2. Vice-Presid. U. S. 57.
		<b>4. Judicial.</b> 13.

39 1. **Legislative.**—The Constitution makes no general distinction between the powers of the two Houses in legislation. It vests all legislative power in a Congress of the United States, consisting of a Senate and House of Representatives. These bodies are, therefore, co-ordinate with each other in general legislation.

0 But, as we have seen in a former chapter, there is one power relating to legislation vested in the House exclusively; and that is the power to originate bills for raising revenue.

41 Yet, when these bills reach the Senate, that branch of the Legislature may treat them in all respects as though they originated there. They can propose amendments, concur with amendments, or reject them, if proposed by the House, at any stage of the proceedings; or they can reject the bills altogether.

22 2. **Executive.**—1. *Appointments.*—The power over appointments to office and of ratifying treaties is called executive, because in such cases the Senate acts on the recommendations of the President. In the transaction of such business the session is called an executive session, and they sit with closed doors, the members being, generally, under an injunction of secrecy.

23 The President nominates, and by and with the advice and consent of the Senate appoints, Ambassadors, other public Ministers, and Consuls; Judges of the Supreme

Court and all other officers of the United States, whose appointments are not otherwise provided for in the Constitution, and which are established by law.

The power is vested in the Senate, of ratifying or rejecting these nominations of the President.

2. *Treaties*.—A Treaty is an agreement or contract between two or more nations, entered into with proper formality and solemnity, defining the rights of the respective parties thereto with regard to trade, commerce, boundaries, or any other subject of interest to the nations concerned.

The terms of Treaties are usually agreed upon either by Commissioners appointed by their respective governments for the specific purpose of arranging the details, or by Ambassadors or other public Ministers.

Treaties are discussed by the Senate in secret session. They can ratify or reject a Treaty, or ratify it in part and reject it in part; or they can make additions to it. Every part of a Treaty, to be valid, must be ratified by a vote of two-thirds of the Senators present.

When amendments to, or alterations of, the Treaties have been made by the Senate, the whole document must be re-submitted to the President, and also to the foreign government with whom negotiations are pending.

3. *Elective*.—1. *Senate Officers*.—The Senate has the power to elect its officers, except the President thereof, who holds this position by virtue of his being Vice-President of the United States. They are required by the Constitution to choose a President *pro tempore* also. Deliberative bodies, with few exceptions, elect their own officers; and this is necessary to their independence. Here is one of the exceptions to the general rule, however, that the Vice-President is, *ex officio*, President of the Senate.

Besides the President *pro tempore*, the Senate officers are a Secretary, who keeps the record or journal, has charge



of the papers, and reads such as he may be called upon by the members to read ; a Sergeant-at-arms, who sees that orders of the Senate are executed ; a Post-master, who sees to the mailing and distributing letters and papers for the members ; and a Door-keeper, who has charge of the doors.

These officers, except the President *pro tempore*, are not specified in the Constitution, and are not elected from the members of the Senate.

2. *Vice-President*.—As a last resort, the Senate elects a Vice-President of the United States. This is not done, however, until an attempt to elect this officer on the part of Electors chosen by the people has resulted in a failure. An election of a Vice-President by the Senate has taken place in the history of our government but once ; in 1837, Richard M. Johnson was elected by the Senate.

4. *Judicial*.—The Constitution vests in the Senate the sole power to try all impeachments.

When trying impeachments, the Senate sits as a *court* ; and from their decision there is no appeal. Nor can the President of the United States exercise the pardoning power in cases of impeachment.

It requires a concurrence of two-thirds of the members present to convict a party on impeachment. This was believed to be necessary in order to guard against hasty and inconsiderate decisions, and to prevent convictions from party zeal and political bias and prejudice. So large a majority, moreover, would be more likely to command the respect and peaceable acquiescence of the whole country.

The Constitution limits the punishment to be inflicted by the Senate on impeachment,—1st. To removal from office ; and, 2d. To disqualification to hold and enjoy any office of honor, trust, or profit under the United States.



## QUESTIONS.

39. What is said of the general legislative power ?
40. What legislative power belongs to the House only ?
41. What power has the Senate over these bills ?
42. What are the Executive powers of the Senate ?
43. On what appointments to office does the Senate act ?
44. What is a Treaty ?
45. By whom are the terms of Treaties generally proposed ?
46. What power over Treaties has the Senate ?
47. What officers has the Senate ?
48. By whom are they chosen ?
49. What are the duties of these officers ?
50. When does the Senate elect a Vice-President of the United States ?
51. How many times has this occurred ?
52. What is the judicial power of the Senate ?
53. What is said about impeachments ?
54. What punishment may follow impeachment ?

# BLACKBOARD EXERCISE.

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## PROVISIONS COMMON TO BOTH HOUSES.

- I. Membership. 17.
- II. Ineligibility. { 1. Official Incumbrance. 22.  
2. Disloyalty. 100.
- III. Business Quorum. 17.
- IV. Parliamentary Rules. 18.
- V. Yeas and Nays. 19.
- VI. Journal. { 1. Keeping. 19.  
2. Publishing. 19.
- VII. Penalties. { 1. Punishment. 18.  
2. Expulsion. 18.
- VIII. Prohibitions. { 1. Adjournments. { 1. Time. 20.  
2. Place. 20.  
2. On Members. { 1. Offices created. 22  
2. Emoluments in-  
creased. 22.
- IX. Official Oath. 84.
- X. Salaries. 21.
- XI. Official Privileges. { 1. From Arrest. 21.  
2. Of Debate. 21.

## CHAPTER XI.

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### LESSON 22.

#### *PROVISIONS COMMON TO BOTH HOUSES.*

##### I. Membership. 17.

CONSTITUTION : "Each House shall be the judge of the elections, returns, and qualifications of its own members."

These are powers which, from the necessity of the case, must be vested in the House where membership is claimed. It is necessary to settle the legality and regularity of the *election*; otherwise any person might intrude himself into either House without the least show of authority. Regularity and legality of election can be determined only by an inquiry into the election through the *returns*, which opens the whole subject for investigation; for, in ascertaining the validity of the returns, it may be necessary to go back of them, and inquire into the legality of the election itself.

Were it not for these powers a person might claim membership to either House who was wholly ineligible.

Even though regularly elected, he might lack any or all those qualifications required by the Constitution.

The power of determining the right to membership belongs not only to each House of Congress by express Constitutional provision, but like authority is conceded to the legislative bodies of all the States, and to kindred bodies under all free governments.

II. Ineligibility. } 1. Official Incumbrance. 22.  
 } 2. Disloyalty. 100.

1. Official Incumbrance.—The language of the Constitution on this subject is :—“ No person holding any office under the United States shall be a member of either House during his continuance in office.”

If a person holds any Federal office at the time of his election to either House of Congress, he must resign it before he has the right to take his seat. This provision originated in a deference to State jealousy, and fear that the General Government would obtain an undue influence in the National Councils. If a Federal officer were allowed to be a member of either House, he might wield an undue influence over those with whom he would be associated in legislative deliberations.

2. Disloyalty.—In the year 1861, a great civil war broke out in the United States which continued more than four years. It cost the country more than a million of lives and several billions of money. Most of the slaveholding States passed ordinances of secession, and many of their citizens, to the number of several hundred thousand, took up arms against the Government of the United States. Among the insurgents were thousands of the prominent men of the South, many of whom had held high offices in State and Nation. The conflict resulted in the downfall of the rebellion, and in the triumph of the Federal Government.

The Federal and State office-holders who were engaged in the secession movement, had taken an oath to support the Constitution of the United States. By the third clause of the fourteenth Article of Amendments to the Constitution all such persons are declared ineligible to a seat in either House of Congress. Though by a further provision of the same clause such disability may be removed by a vote of two-thirds of the members of each House.

### III. Business Quorum. 17.

The Constitution says :—"A majority of each House 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."

It is indispensable that the Constitution specify the number necessary to do business ; otherwise a reckless and intriguing minority might take advantage of the absence of the majority, and usurp the functions of legislation by enacting repugnant and odious laws, or by repealing those most acceptable to the people.

On the contrary, if a smaller number could not adjourn from day to day, or compel the attendance of absent members, the whole business of legislation might be suspended at the pleasure of a few refractory absentees. The necessity of these three provisions in reference to business, therefore, must be evident at a glance.

### IV. Parliamentary Rules. 18.

Constitution : "Each House may determine the rules of its proceedings."

Every deliberative assembly has an inherent right to adopt such parliamentary rules as it chooses for the transaction of business, provided those rules do not violate any organic law from which such assembly receives its authority.

Take away this right to adopt their own rules of proceeding, and it would be utterly impracticable to transact business with facility and dispatch.



## QUESTIONS.

1. What does the Constitution say about membership?
2. Why is this necessary?
3. What may be necessary to the inquiry of the legality of the returns?
4. What might a person lack though regularly elected?
5. To what legislative bodies is this right accorded?
6. What are the conditions of ineligibility?
7. What is the language of the Constitution as to this?
8. In what did this originate?
9. What great event occurred in 1861?
10. What did it cost the country?
11. What did the Southern States do?
12. How did the conflict terminate?
13. What oath had many of the insurgents taken?
14. What does the fourteenth Article of Amendments say about these?
15. What does the Constitution say about a quorum?
16. Why does the Constitution define the quorum to do business?
17. What is said about Parliamentary rules?
18. What if this right were taken away?

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## LESSON 23.

### *PROVISIONS COMMON—Continued.*

#### V. Yeas and Nays. 19.

Constitution: "The *yeas* and *nays* of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal."

The usual method of taking a vote in deliberative bodies is substantially this:—The question being stated by the presiding officer, he puts it first affirmatively, "As many as are in favor of the proposition, *say Aye.*" All the members in favor of it respond *Aye*. The presiding officer then puts the question negatively, "Those opposed *say*

*No.*" The president is generally able to decide by the sound ; but if not, he repeats the trial, calling the vote both affirmatively and negatively. If still in doubt, or at the request of a member, the House may be divided ; the affirmative taking one side, and the negative the other, when the secretary counts ; and, on the count, the decision is made.

But in taking the yeas and nays, the process is quite different. The presiding officer states both sides at once, thus : "As many as are in favor, etc., will, when their names are called, *answer, Yea* ; and as many as are opposed will, when their names are called, *answer, No.*" The names are then called, usually in alphabetical order, each member rising at the call of his name by the secretary or clerk, and answering yea or nay, as he votes ; the clerk noting the vote in each case. He then usually reads over the list of names and the votes in each case, so that, if any mistakes have been made, they may be corrected.

Several objects are secured by taking the yeas and nays :

1st. They are entered on the journal, which shows, therefore, the way each member votes. The record is kept for future inspection.

2d. The record also shows who were absent ; a matter of scarcely less importance to the member, or his constituency, than the vote itself one way or the other. Members sometimes absent themselves for the purpose of avoiding responsibility in voting.

3d. As the newspapers publish a list of the yeas and nays, the people soon learn how each member has voted on any important question.

## VI. Journal. { 1. Keeping. 19.                   { 2. Publishing. 19.

1. **Keeping.**—The Constitution says that each House shall keep a journal of its proceedings. This provision

imposes a salutary restraint upon the members of the two Houses. In a certain sense, it brings representative and constituent face to face. The journal contains a lasting record of the doings of the body for which it is kept, and is accessible for inspection at all proper times.

2. **Publishing.**—The Constitution requires that, from time to time, the journal shall be published; excepting such parts as are proper to suppress; of which each House is the judge.

There may be proceedings in every legislative body, especially in times of insurrection or invasion, the immediate publication of which would be imprudent in the highest degree. The publication of such from day to day might give great advantage to a public enemy, and endanger the very existence of the government itself.

## VII. Penalties. { 1. **Punishment.** 18. 2. **Expulsion.** 18.

1. **Punishment.**—The Constitution says that “each House may punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.”

The power to punish members for disorderly behavior is usually given to legislative bodies. Without this power, it might be impossible, at times, to transact business. Under high excitement, members are sometimes boisterous and tumultuous in conduct; and they might persist in disturbing the assembly, but for this power to punish. Rules would be of no use without the power to enforce them.

2. **Expulsion.**—The power to expel a member is given for the same purpose; that is, for the preservation of order, and for the maintenance of proper decorum. Without these powers, the country would lose all respect for its legislative assembly. But lest party-spirit might overstep the limits of propriety, and a domineering majority

expel members of opposite political sentiments from improper motives, a salutary restraint is imposed, requiring a vote of two-thirds for the expulsion of a member. So large a majority it would be difficult to secure in any case where the rights of the assembly had not been grossly outraged.

A member may be expelled, not only for misbehavior in the presence of the assembly itself, but for any conduct elsewhere incompatible with his obligations as a legislator.

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## QUESTIONS.

19. What does the Constitution say about yeas and nays?
20. What is the usual method of taking votes?
21. How, by yeas and nays?
22. What objects are secured by this method?
23. What does the Constitution say about keeping a journal?
24. What is the use of this provision?
25. What about publishing the journal?
26. Why not publish the whole journal?
27. What does the Constitution say about penalties?
28. What is the use of this power?
29. For what is the power of expulsion given?
30. Why is so large a vote required to expel a member?
31. For what may a member be expelled?

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## LESSON 24.

### *PROVISIONS COMMON—Continued.*

<b>VIII. Prohibitions.</b>	}	<b>1. Adjournments.</b>	{	1. Time. 20. 2. Place. 20.
		<b>2. On Members.</b>	{	1. Offices created. 22 2. Emoluments increased. 22.

**1. Adjournment.**—Constitution: “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.”

1. *Time*.—If there were no limitation as to the time for which either House, during the session of Congress, might adjourn without the consent of the other, a factious party-spirit controlling in either House might seriously interrupt legislation, or bring it to an untimely close.

2. *Place*.—Were there no restriction with regard to the *place* to which either House might adjourn without the consent of the other, mischief equally disastrous and embarrassing might be perpetrated. One House might compel the other to follow it from place to place for the very purpose of preventing legislation. This might be done by a minority taking advantage of the absence of a majority, as a minority has power to adjourn.

The duration of the sessions of Congress depends,

1st. On the constitutional limitation, which can not extend beyond the period of two years.

2d. On the pleasure of the two Houses, subject to the foregoing restriction.

3d. On the pleasure of the President of the United States, when the two Houses cannot agree on the time of adjournment.

2. **On Members.**—Constitution : “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.”

If a member of Congress were permitted to assist in creating an office, and then to resign his seat for the purpose of obtaining that office on being nominated to it by the President, it would throw wide open the doors to executive corruption. Numerous lucrative offices might



thus be created by legislation, with the understanding, express or implied, between the legislators and the Executive, that the offices so created should be distributed among those who were instrumental in creating them.

The chairman of the Judiciary Committee might propose, to the House of which he was a member, the creation of a United States Judgeship in California, with a salary of ten thousand dollars a year; and, through his official influence, the bill might pass both Houses of Congress. By pre-arrangement with the Executive, that office might be secured to the very man who had been the chief means of creating it, were he at liberty to resign his seat and take it.

Also, by a system of "bargaining and selling," the salaries of certain offices might be greatly increased by mercenary legislation; and then those salaries might be bestowed on the very men who had been active in augmenting them, but for the restrictions under consideration.

### IX. Official Oath. 84.

Senators and representatives shall be bound by oath or affirmation to support the Constitution of the United States.

This oath is administered to the members, before taking their seats, by the Secretary of the Senate, or Clerk of the House of Representatives. He who takes it appeals to the Supreme Being for the rectitude of his intentions. Such an oath is calculated to make a solemn impression on the mind of any candid and conscientious man.

It seems fit and proper, therefore, that all who assume the important trust of legislation for their country should take upon themselves this solemn obligation. They assume grave responsibilities, the faithful discharge of which concerns the welfare of the whole people..



Some persons are conscientiously opposed to taking an *oath* on any occasion whatever. Out of respect to the scruples of such persons, a solemn affirmation is administered instead of an oath.

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## QUESTIONS.

32. What does the Constitution say about adjournments?
33. Why this limitation?
34. Why the limitation as to place?
35. On what does the duration of Congress depend?
36. What are the constitutional prohibitions on members?
37. How might members profit but for this prohibition?
38. What is the official oath?
39. Why should this oath be taken?
40. Who may be excused from taking it?

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## LESSON 25.

### *PROVISIONS COMMON—Continued.*

#### X. Salaries. 21.

The language of the Constitution on this subject is:—  
 “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.”

The salaries of the Representatives are the same as the salaries of the Senators. At first, in 1789, they were fixed at six dollars a day, and six dollars for every twenty miles' travel in going to and returning from the seat of Government. This compensation has been increased from time to time by various Acts of Congress. The salary of a member of either House at the present time, 1875, is five thousand dollars a year. That of the Speaker of the

House is eight thousand dollars ; of the President of the Senate the same.

The Constitution says that the compensation is to be ascertained by law ; which is by no means a very difficult matter, as the members make the law to suit themselves. As to the amount, there is no constitutional restraint or limit. The want of some provision of limitation was not entirely overlooked by the authors of the Constitution. They thought it improbable, however, that such an authority placed in such hands would be abused. But, right or wrong, much complaint has been uttered on the subject.

The members of the British Parliament, whether of the House of Commons or the House of Lords, receive no compensation whatever.

Many of the members of the Convention that formed the Constitution, were opposed to allowing salaries to Senators and Representatives. It was proposed to consider the *honor* of the position a sufficient reward ; believing that this would secure the services of men of higher character and more distinguished ability.

But the majority of the Convention were in favor of salaries ; and this view prevailed. It was thought best that the salaries of members should be paid from the United States treasury, as that would be more likely to secure promptness of payment, and, consequently, promptness of attendance. Under the Confederation, the members were paid by their respective States. The pay was often slow, and the attendance tardy and reluctant.

**XI. Official Privileges.** { 1. From Arrest. 21.  
2. Of Debate. 21.

Constitution : "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.”

1. **From Arrest.**—This is a privilege accorded to members of all legislative bodies. But for it the House might suffer great inconvenience in the transaction of business, and the congressional district, or the State, might be for a time without representation.

Prominent members of important committees, or even the Speaker of the House, might be detained from the performance of legislative duties at the instance of private creditors; and thus private interests would be allowed to interfere with the performance of public duties.

They can be arrested for crime only. An eminent English jurist says that it has immemorially constituted a privilege of both Houses of the British Parliament. It is also necessary in order to sustain the personal independence of the members.

2. **Of Debate.**—For the purpose of securing entire freedom of discussion, no member of either House can legally be questioned elsewhere for anything which he may see fit to utter in debate in his place as a member; that is, he can not *legally* be called to account before the courts, no matter how much he may slander private character. This provision is for the purpose of securing entire and unlimited freedom of discussion.

Of course, this is a right which may be, and sometimes is, abused. But the public interests may require the most critical and searching examinations into personal and official qualifications of individuals proposed as candidates for public stations of grave responsibility. Members should be allowed to perform these duties without fear of future personal retribution.

## QUESTIONS.

41. What does the Constitution say about salaries?
42. What was the salary of a member in 1789?
43. What is the salary now?
44. What are the salaries of the presiding officers?
45. Who fixes the amount of salaries?
46. Why should the salary be paid out of the treasury of the United States?
47. By whom was it paid under the Confederation?
48. Why should members be privileged from arrest?
49. For what may they be arrested?
50. What is the second privilege?
51. Why is this?

# BLACKBOARD EXERCISE.

## POWERS OF CONGRESS.

- I. Finances.
  - 1. Resources.
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# CHAPTER XII.

## LESSON 26.

### POWERS OF CONGRESS.

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THE word finances, as here used, signifies the resources and disbursements of the country.

1. Resources.—The resources of a country are the pecuniary means which it has at its command.

1. *Taxes, duties, imposts, and excises.*—By our Constitution the resources consist in part of the power to lay and collect taxes, duties, imposts, and excises.

A tax is a sum of money levied on the property or inhabitants of a country for the support of the government. The power to lay and collect taxes belongs to every human government, without which the expenses thereof could not be defrayed. This is one of the means which it has of enabling it to perform its obligations to the country. No government could sustain itself without regular and reliable resources.

Direct taxes are the kind here referred to. They are to be apportioned among the several States in the same

manner as representatives ; that is, in proportion to the representative population. Taxes are of two kinds, direct and indirect. Direct taxes are such as are laid on the property of the country, or on persons ; the latter being called a capitation tax. Indirect taxes are such as are levied on articles of consumption, of which no person pays, except in proportion to the quantity or number of such articles which he may consume.

Duties, imposts, and excises are also of the nature of indirect taxes. These must be uniform throughout the United States ; that is, the same in all States.

The word duties refers to a kind of taxes levied on goods and merchandise imported or exported. In *our* country, an *export* duty is not permitted to be levied. The Constitution forbids it.

The imposts, under our government, are equivalent to customs, referring strictly to the duties on imports from foreign countries.

The word excises is applied more particularly to internal taxation ; being levied on articles manufactured and consumed in the country, and also on various kinds of business. The money paid for licenses to sell liquors, or to deal in any other commodities, is called excises, or excise taxes.

Duties on imports are of two kinds,—specific and *ad valorem* ; and are collected at the custom-house. A specific duty is a certain sum of money charged according to quantity or weight, without any reference to the *value* of the articles weighed or measured ; as a dollar on a yard of silk, or ten cents on a pound of tea.

*Ad valorem* is a word or phrase that signifies *according to the value of*. *Ad valorem* duties are levied on articles according to their value ; as twenty-five per cent on the cost of cloth, and ten per cent on the cost of tea.

Duties are collectible at the custom-house where the

goods are landed for consumption. Goods are estimated at their value where they are purchased, not where delivered. This is shown by the invoice, unless there is evidence of fraud in the bill; in which case, the proper officers investigate the matter, and decide according to the proof.

If fraud is proved, the goods are forfeited to the use of the United States; and the perpetrator of the fraud may be punished for it as well as for the perjury.

2. *Borrow money.*—The power to borrow money on the credit of the United States is classed among the government resources. It has often been found to be of great importance in sustaining the financial interests of the country. No country can sustain itself through a long and expensive war, simply on its ordinary income. All the great powers of the world have found it necessary, at one time or another, to borrow money.

In our wars with Great Britain and with Mexico, we found it necessary to borrow in large sums; but, in our more recent domestic war, we were compelled to run up our national debt to nearly three thousand millions—thus anticipating the government income for a quarter or half a century.

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## QUESTIONS.

1. What does the word finances mean?
2. Of what do the resources of this country consist?
3. What is a tax?
4. Why are taxes collected?
5. How many and of what kinds are taxes?
6. What are duties, imposts, and excises?
7. Of what kinds are duties, and where collected?
8. What is the result of fraudulent invoices?
9. Why has it been necessary for the United States to borrow money?

## LESSON 27.

*POWERS OF CONGRESS—Continued.***I. Finances—Continued.**

3. *Territory.*—The right of ownership always implies the right of transfer. The right to dispose of the territory of the United States is to be understood here in a restricted sense. The United States does not own a State in fee-simple, or in any sense implying an interest in its soil. The government has no authority, whatever, to sell a State to any foreign power.

The power of Congress herein referred to is limited to—

- 1st. Unorganized and unoccupied tracts or territories.
- 2d. Public lands in parcels to settlers, or to individuals desiring to purchase.
- 3d. To dispose of them in any other way for the promotion of the general welfare.
- 4th. To cede to States unoccupied lands lying within their boundaries, for literary or school purposes.
- 5th. To re-cede to States, for instance, from which they have been obtained, any lands, when the purposes for which they were obtained no longer exist.

This power to dispose of the territory of the United States implies the power to sell the lands, or to give them away for the public good. Many of the Western States have received grants of large tracts of lands within their borders by Act of Congress. In selling lands to individual purchasers, the government has received many millions into its treasury; so that the disposition of the territory belonging to the United States may be regarded as one of the national resources.

4. *Other property.*—Congress is invested with power to



dispose of other property of the United States. This, doubtless, includes every species of personal property. In time of war, especially, a vast amount of personal property accumulates in the hands of government, such as ships, horses, wagons, guns, clothing for soldiers, etc., which become useless in time of peace, and may be disposed of to the advantage of the public treasury.

2. *Disbursements.*—The disbursements of a government are the sums of money paid out by it. Congress is authorized to make appropriations for the following purposes :

1. *United States debts.*—The only purposes for which the burden of taxes, duties, imposts, and excises can be imposed, are to pay the debts and provide for the common defense and general welfare of the United States. The power of raising money through these means is for these definite and stipulated purposes.

Everything necessary for the welfare of the country is included in these powers of collecting money and disbursing it. The want of this, it will be remembered, was a serious defect under the Confederation. Before the adoption of the present Constitution the government was utterly powerless to maintain its credit at home or abroad.

2. *Common defense.*—To provide for the common defense is one of the objects for which the various kinds of taxes may be imposed. A nation without the ability to protect itself from foreign invasion or domestic insurrection is destitute of one of the attributes of sovereignty essential to its independence. The army and navy are the organizations through which a nation demonstrates its strength in time of war. To support these on a scale commensurate with the wants of the United States necessarily requires the expenditure of immense sums of money. They will be further noticed in considering the war-power of Congress.

3. *General welfare.*—To provide for the welfare of its



citizens is the first duty of every government. Unable to do this, it will soon fail to command the respect, homage, and loyalty of its subjects ; and no government, especially republican in form, can long exist without the regard and affection of the people.

If there is a single sentence or clause in the Constitution more comprehensive of its purposes than any other, it is this one requiring Congress to make provision for the general welfare. Indeed, this is the one great object of its origin.

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## QUESTIONS.

10. In what sense is the right to dispose of territory to be understood ?
11. What does the power here imply ?
12. What was the country's credit under the Confederation ?
13. What other object for imposing taxes ?
14. What is the first duty of every government ?

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## LESSON 28.

### *POWERS OF CONGRESS—Continued.*

- II. Commerce.** { **1. Foreign Nations.** 28.  
**2. Several States.** 28.  
**3. Indian Tribes.** 28.

**1. Foreign Nations.**—Under the Confederation, Congress did not possess the power to regulate commerce. It belonged entirely to the several States ; and each acted according to the dictates of its own interests. This produced angry disputes and rivalry between them, from which not only the several States, but the general government, greatly suffered.

The authors of the Constitution, therefore, had no

hesitation in conferring this power upon Congress. The vexations and bitter experiences of the past induced the country at large to readily accept this provision.

2. *Several States.*—The disastrous troubles of the past had rendered it evident that the power to regulate *foreign* commerce and *inter-state* commerce ought to be in the same hands. Indeed, they could not safely be separated. The power to regulate foreign commerce, if vested in Congress, it was believed might be so exercised as to compel foreign nations to meet us on terms of reciprocity.

But if the States were to be allowed to restrict each other, to cultivate rivalry of interests, and to foster the jealousies of the past, commerce must languish, and the whole country must suffer.

If goods landed or manufactured in New York or Massachusetts could not be sold and conveyed into Pennsylvania or Connecticut without being burdened with State restrictions, not only would feuds be cultivated among the States, but foreign commerce would be seriously embarrassed, if not wholly destroyed; and this would strike a fatal blow at our national revenue."

3. *Indian Tribes.*—Under the Confederation, Congress had but a limited power over commerce with the Indian tribes. They had none, except with those tribes located outside the limits of the State. Within a State the State itself had the authority. Each State adopted its own policy with this people. Consequently, there was no uniformity of traffic with the Indians; and, this creating dissatisfaction among the tribes, frequent aggressions and depredations were the result.

That this power should be vested in Congress was indispensable, for three reasons :—

1st. Experience had proved that it was extremely hazardous to leave it with the States.

2d. Congress could much more easily command the confidence of the tribes than any State legislatures.

3d. It was necessary for the preservation of the rights, and for the defense of the territory of the Indians themselves.

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## QUESTIONS.

15. With whom has Congress the power to regulate commerce?
  16. Why was this power given to Congress?
  17. What objections to State restrictions?
  18. Why is it necessary that Congress should regulate commerce with the Indians?
- 

## LESSON 29.

### *POWERS OF CONGRESS—Continued.*

<b>III. Commercial.</b>	{	<b>1. Coinage of Money.</b> <b>2. Value of Coin.</b> { 1. Domestic. 30. { 2. Foreign. 30. <b>3. Weights and Measures.</b> 30. <b>4. Bankruptcy.</b> 29.
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1. **Coinage of Money.**—This power is one of the ordinary prerogatives of sovereignty. It is exercised for the purpose of securing a proper circulation of genuine instead of base coin in commercial transactions. In order to insure its purity and uniformity of value, the coining of money is placed exclusively under the supervision of the Federal government. Money is the common standard by which the value of all articles of merchandise and real estate is measured or determined. Were it left to the States to coin money, there would be no uniformity in the standard of value; depending, as it would, on State lines and boundaries.

The advantages arising from placing this power exclusively in the hands of Congress are,—

1st. The facilitation of exchanges at home and abroad.

2d. The encouragement and stimulus which it imparts to commerce.

3d. The barrier which it erects against embarrassments arising from undue and forced scarcity.

4th. It insures uniformity of value, as it insures uniformity of alloy.

2. Value of Coin.—1. *Domestic coin.*—The power to regulate the value of domestic coin is expressly conferred on Congress by the Constitution. This is especially for the purpose of securing entire uniformity of value, in order that it may pass from hand to hand in business transactions; obviating the necessity of a test being applied to each piece of money in each commercial transaction. Every piece of money is stamped in such a manner as to indicate its precise value.

When at first metals were used as media of exchange, especially in ancient Britain, it was necessary to weigh such as were used, in every business transaction. It was also necessary to subject them to tests that would determine their purity.

They were not formed in the similitude of the beautiful coins of modern times.

2. *Foreign.*—The power of regulating the value of *foreign* coin, is also given to Congress. But for the power to regulate the value of foreign coin, it would be difficult to regulate the value of domestic coin.

Different States might attach different values to the same piece of foreign coin. Massachusetts might call a piece of English money, known as a sovereign, five dollars; and New York, four dollars. A citizen of Massachusetts owing a citizen of New York five thousand dollars, to be paid in Boston, could compel the latter to accept a thousand

sovereigns in payment, on which the citizen of New York would lose a thousand dollars if he used the money at home. Thus, foreign coin would become an article of commerce the same as any other commodity.

3. **Weights and Measures.**—Congress has the express power to fix the standard of weights and measures. But as yet it has not been exercised by this body.

Until Congress shall fix a standard, the understanding seems to be that the States possess the power to fix their own weights and measures; or, at least, the existing standards at the adoption of the Constitution remain in full force.

It is desirable that a pound, a gallon, and a bushel shall be the same in all the States and Territories. But this entire uniformity will hardly be secured until Congress shall exercise its power over the subject.

4. **Bankruptcy.**—The power to pass or establish uniform laws on the subject of bankruptcies is classed here as among the commercial interests of the government. A law of this character is regarded as indispensable to the commercial interests of the country.

A bankrupt is one who owes more than he can pay. Especially he is to be regarded as such, when the question of his inability to pay his debts has been judicially ascertained. No State has a right to pass a bankrupt law, or any other law impairing the obligation of contracts.

The objects of a bankrupt law are twofold:—

1st. To enable creditors to secure an appropriation of all the property of a debtor who fails to pay his debts; allowing the courts, in such cases, to give the debtor a complete discharge from all indebtedness.

2d. To relieve unfortunate debtors from their debts, and from liability to imprisonment, on their own application and surrender of all their property.

A bankrupt law must not be confounded with an



insolvent law. An insolvent law simply relieves from a liability to imprisonment for debt, on the surrender of the debtor's property to the creditors ; it does not discharge the indebtedness itself. In such cases, the future property of the debtor may be seized for his debts, and appropriated to their payment. On the contrary, a discharge under a bankrupt law annihilates the debts themselves, and the creditors have no further claims.

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## QUESTIONS.

19. Why should the coinage of money be placed in the hands of the government?
20. What is money?
21. Why not leave coinage to the States?
22. Why should it be placed in the hands of Congress?
23. Why should government determine the value of money?
24. What was necessary when metals were first used?
25. Why was it necessary that Congress should regulate the value of foreign coin?
26. What is said about the standard of weights and measures?
27. What is a bankrupt?
28. What is the object of bankrupt laws?

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## LESSON 30.

### *POWERS OF CONGRESS—Continued.*

- |                       |   |                                |                            |
|-----------------------|---|--------------------------------|----------------------------|
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|                       |   |                                | { 2. U. S. coin. 31.       |
|                       |   | <b>2. Crimes on high seas.</b> | { 1. Piracies. 35.         |
|                       |   |                                | { 2. Felonies. 35.         |
|                       |   | <b>3. Treason.</b>             | 73.                        |

1. Counterfeiting.—Counterfeiting consists in making imitations of coin, bank-bills, or other securities, approaching so near to a likeness of the originals as to deceive a person of but ordinary experience.

1. *U. S. Securities.*—The power to punish, or to prescribe the punishment as it is here to be understood, for counterfeiting the securities and current coin of the United States, is a necessity growing out of the power of Congress to coin money and to regulate its value.

2. *U. S. Coin.*—We have seen that Congress has the sole power to coin money. It consists chiefly of gold and silver, and is struck at the mint in denominations adapted to the uses of commerce.

Without the power to attach severe penalties to the crime of counterfeiting, the securities and coin of the United States would soon become comparatively worthless; the country would be filled with spurious bills, bonds, and coin; and it would not be long before money would cease to be a medium of exchange among the masses, who are unskilled in detecting the base from the genuine.

2. *Crimes on High Seas.*—Congress is vested with power to define and punish piracies and felonies when committed on the high seas. In pursuance of this authority Congress has passed several acts on the subject. For instance, in 1820, the foreign slave-trade was made piracy, punishable by death. From the foundation of our government, until 1808, the foreign slave-trade was lawful commerce. Congress has the power to enlarge or contract the definition of piracy from its common-law meaning. Sir William Blackstone defines piracy at common law to consist in committing those acts of robbery and depredation on the high seas, which, if committed on land, would amount to felony.

Felony is another word of common-law definition. The author last quoted defines it to be every species of crime which at common law occasioned the forfeiture of the lands and goods of the criminal; and this happens most frequently in those crimes for which a capital punishment is or was inflicted.

Therefore, felony is a word of generic import and includes many crimes; such as, murder, larceny, arson, burglary, etc. The Constitution authorizes Congress to change this common-law definition of felony in cases where it may be necessary to do so. When committed on the high seas, it could not properly be left with the States to define it, as the jurisdiction of offenses not committed within State limits must necessarily be restricted to the Federal courts.

The high seas embrace not only the waters of the ocean which are out of sight of land, but the waters on the sea-coast below low-water mark, whether within the territorial boundaries of a nation or of a domestic State.

**3. Treason.**—The Constitution says that Congress shall have the power to declare the punishment of treason. This crime consists in levying war against the United States, or in adhering to their enemies, giving them aid and comfort. In 1790, Congress affixed to this crime the penalty of death. In 1862, Congress passed another act, punishing treason with death, or imprisonment for not less than five years, and a fine of ten thousand dollars, and the slaves of the party convicted to be free. This act was passed before the abolition of slavery in the United States.

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## QUESTIONS.

29. What is counterfeiting?
30. Why is punishment for this crime necessary?
31. What is the power of Congress over piracies and felonies committed on the high seas?
32. What is piracy at common law?
33. How is felony defined?
34. What are the high seas?
35. What is treason?
36. What penalty has Congress attached to this crime?

## LESSON 31.

*POWERS OF CONGRESS—Continued.*

V. Postal. { 1. Post-offices. 32.  
 { 2. Post-roads. 32.

1. Post-offices.—The power to establish post-offices and post-roads is given to Congress by the Constitution. Nothing like a uniform postal system could have been established and carried on, had the matter been left to the several States. There would have been as many different postal systems as there are States.

Under such a system, or rather, such a want of system, the burdens must be unequal. It is far more expensive to transport the mails in some parts of the country, mile for mile, than in others. Yet it is in a high degree important to the whole country that the forest and the prairie be subjected to the hand of cultivation. And who will become pioneer, if he must be shut out from all communication with that world which he has left behind?

The general superintendence and direction of the post-office department is under the care of the Post-master General. He has the establishing of post-offices, appoints most of the post-masters, and has the letting of the contracts for carrying the mails.

Some of the post-masters, in the larger offices, are appointed by the President by and with the advice and consent of the Senate. Formerly postage was at much higher rates than now. From the beginning of the postal system in this country down to 1845, the rates of postage on a letter weighing half an ounce or less, ranged from six to twenty-five cents, depending on the distance it was carried. For each additional half ounce or less an additional postage was charged.

From 1845 to 1851, the rates of postage were five cents for half an ounce or less, if carried less than three hundred miles, and ten cents if conveyed over three hundred miles. In 1851, the uniform rate of postage on letters not exceeding half an ounce was fixed at three cents, if not conveyed over three thousand miles and wholly within the United States. In 1870 the 3-cent rate was extended to include all points within the United States, the limit of 3000 miles being removed; and in 1883 this rate was further reduced to *two cents*, taking effect Oct. 1 of that year.

For letters sent to foreign countries, various rates have been established (higher than these), the rates depending on the countries to which the letters are sent.

In 1790, there were but seventy-five post-offices in the United States. In 1882 there were upwards of 45,000. The aggregate number of miles traveled in carrying the mail, in 1790, was 7,365; in 1882, more than 150,000,000.

It is encouraging to know, that, under the cheap postage plan with which the American people are now favored, the post-office department is nearly self-sustaining.

**2. Post-roads.**—A post-road is a road established as such by authority of law, over which the government mails are to be regularly carried.

It has not been necessary, except in a few instances, that Congress should exercise their power to establish post-roads. Generally the roads already opened by the inhabitants of the country through which the mails are conveyed have been found sufficient. They are regularly selected, and declared, however, to be post-roads, before being used as such. The waters on our rivers and lakes, over which travel is public and regular, are, in many instances, established as post-roads in this way.

The mails are carried by private individuals, or by railroad or steamboat companies, the contract being made



with the Postmaster-General in behalf of the United States. He advertises for bidders, and lets the contract in each case to the lowest responsible bidder. Those who are in immediate charge of the mails are sworn to the faithful discharge of their duties.

### VI. Patent and Copyrights. 33.

The Congress shall have power, the Constitution says :

“To promote the progress of science and useful arts, by securing for limited times to authors and inventors, the exclusive right to their respective writings and discoveries.”

Under the Confederation, the power did not belong to Congress to make provisions for patent and copyrights. From the very nature and character of the interest, these rights could not be protected by the several States to authors and inventors. For State legislation could not afford the necessary protection to authors ; as their legislation could only cover their own respective territorial boundaries.

**Copyright.**—A copyright may be secured to authors for books, maps, charts, musical compositions, cuts and engravings, or for any other literary and scientific productions. The copyright extends for twenty-eight years ; and if, at the end of that time, the author is still living, he may obtain its extension for fourteen years longer ; or, if dead, his living representatives may obtain its extension ; making in all forty-two years ;

The expense of securing a copyright is but a trifle,—only about a dollar. When procured, it insures to the author during its continuance a monopoly of the publication and sale of his work.

Any one desiring to secure a copyright should write to the Librarian of Congress for a circular of instructions ; and he will receive one, without charge, by early mail.

**Patent-right.**—Patents are issued by the Patent-Office at Washington, giving the inventor of any new and useful machine, instrument, manufacture, or composition of matter, or any new and useful improvement of them, the monopoly in their manufacture and sale for the term of seventeen years.

This patent-right is secured to the inventor by the issue of what are called letters-patent. To obtain letters-patent the applicant must make a distinct specification, giving a full and complete description of his invention; and, in cases admitting of drawings and models, these must be made, and all deposited with the Commissioner of Patents. The Patent-Office belongs to the Department of the Interior.

Letters-patent cost the patentee thirty-five dollars, fifteen of which must accompany the application; the further sum of twenty dollars must be paid on their issue. The fifteen dollars that accompany the application will not be refunded, should letters-patent be refused. But it will be retained to pay for making search through the Patent-Office to ascertain whether there is not some conflicting patent already in existence.

Circulars may be obtained, without charge, giving full information on this subject, by addressing the Patent-Office, requesting them to be forwarded by mail.

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## QUESTIONS.

37. Why should not the postal system be committed to the States?
38. Why should it be committed to Congress?
39. Under whose immediate care is the Post-Office Department?
40. How are post-masters appointed?
41. What were former rates of postage?
42. What changes have taken place in them?
43. How many post-offices in the United States?

44. What is a post-road ?
45. How are the roads established ?
46. By whom are the mails carried and how are the contracts let,
47. What does the Constitution say about patent and copyrights ?
48. Why might not this subject be left with the several States ?
49. How long does a copyright continue ?
50. What is the expense of obtaining it ?
51. What is a patent-right ?
52. What are the steps necessary to secure it ?
53. What is the expense of letters-patent ?
54. How long does a patent continue ?

## LESSON 32.

### *POWERS OF CONGRESS—Continued.*

- |                     |   |   |   |                     |   |                    |  |  |                |  |  |                      |  |  |                   |                   |   |                           |  |  |                       |  |
|---------------------|---|---|---|---------------------|---|--------------------|--|--|----------------|--|--|----------------------|--|--|-------------------|-------------------|---|---------------------------|--|--|-----------------------|--|
| <b>VII. War.</b>    | { | <b>1. Declaration.</b> 36.                  |   |                     |   |                    |  |  |                |  |  |                      |  |  |                   |                   |   |                           |  |  |                       |  |
|                     |   | <b>2. Marque and Reprisal.</b> 36.          |   |                     |   |                    |  |  |                |  |  |                      |  |  |                   |                   |   |                           |  |  |                       |  |
|                     |   | <b>3. Captures.</b> 36.                     |   |                     |   |                    |  |  |                |  |  |                      |  |  |                   |                   |   |                           |  |  |                       |  |
|                     |   | <b>4. Armies.</b> 37.                       |   |                     |   |                    |  |  |                |  |  |                      |  |  |                   |                   |   |                           |  |  |                       |  |
|                     |   | <b>5. Navy.</b> 38.                         |   |                     |   |                    |  |  |                |  |  |                      |  |  |                   |                   |   |                           |  |  |                       |  |
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|                     |   | <b>7. Militia.</b> {                        | <table style="border: none;"> <tr> <td style="padding-right: 10px;">1. General control.</td> <td style="font-size: 2em; padding-right: 5px;">{</td> <td>1. Organizing. 41.</td> </tr> <tr> <td></td> <td></td> <td>2. Arming. 41.</td> </tr> <tr> <td></td> <td></td> <td>3. Disciplining. 41.</td> </tr> <tr> <td></td> <td></td> <td>4. Governing. 41.</td> </tr> <tr> <td style="padding-right: 10px;">2. Calling forth.</td> <td style="font-size: 2em; padding-right: 5px;">{</td> <td>1. Laws of the Union. 40.</td> </tr> <tr> <td></td> <td></td> <td>2. Insurrections. 40.</td> </tr> <tr> <td></td> <td></td> <td>3. Invasions. 40.</td> </tr> </table> | 1. General control. | { | 1. Organizing. 41. |  |  | 2. Arming. 41. |  |  | 3. Disciplining. 41. |  |  | 4. Governing. 41. | 2. Calling forth. | { | 1. Laws of the Union. 40. |  |  | 2. Insurrections. 40. |  |
| 1. General control. | { | 1. Organizing. 41.                          |   |                     |   |                    |  |  |                |  |  |                      |  |  |                   |                   |   |                           |  |  |                       |  |
|                     |   | 2. Arming. 41.                              |   |                     |   |                    |  |  |                |  |  |                      |  |  |                   |                   |   |                           |  |  |                       |  |
|                     |   | 3. Disciplining. 41.                        |   |                     |   |                    |  |  |                |  |  |                      |  |  |                   |                   |   |                           |  |  |                       |  |
|                     |   | 4. Governing. 41.                           |   |                     |   |                    |  |  |                |  |  |                      |  |  |                   |                   |   |                           |  |  |                       |  |
| 2. Calling forth.   | { | 1. Laws of the Union. 40.                   |   |                     |   |                    |  |  |                |  |  |                      |  |  |                   |                   |   |                           |  |  |                       |  |
|                     |   | 2. Insurrections. 40.                       |   |                     |   |                    |  |  |                |  |  |                      |  |  |                   |                   |   |                           |  |  |                       |  |
|                     |   | 3. Invasions. 40.                           |   |                     |   |                    |  |  |                |  |  |                      |  |  |                   |                   |   |                           |  |  |                       |  |

**1. Declaration.**—A declaration of war is a solemn, formal, and deliberative notice to all the world in general, and particularly to the citizens of both nations involved, that hostilities actually exist, or are about to commence.

The power to declare war is one of the ordinary prerogatives of sovereignty. As we have no person in this country whom we acknowledge as sovereign, of course there is no one who has the authority to declare war.

In this country the will of the people, when clearly

known, whether exercised by direct vote, or through the indirect forms of legislation, is the only sovereign to which the American people pay homage. Could that will be definitely ascertained without delay, the power to declare war should be vested in the people, to be ascertained by direct vote. But this is utterly impracticable, hence the war-power is vested in Congress, that being the representative body of the whole nation.

When a formal and solemn declaration of war has been made by Congress, peace can be secured only through the negotiations of ambassadors or ministers representing the contending powers. After the ministerial or ambassadorial conference has agreed on the terms of peace, the power to accept or reject those terms on the part of the United States belongs to the President and Senate. It requires a concurrence of two-thirds of the Senators present to conclude a treaty of peace.

**2. Marque and Reprisal.**—The power to grant letters of marque and reprisal also belongs to Congress. These are sometimes issued by the government to prevent the necessity of a declaration of war. This may be done when the subjects of one nation have been injured or oppressed by another nation that refuses to grant indemnity for the injury.

*Letters of Marque* signify a license from the government to pass beyond the limits or jurisdiction of one's own country; and *reprisal* signifies a taking in return. Letters of marque and reprisal are a commission from the government authorizing the bearer to pass beyond the boundaries of his own country for the purpose of capturing prizes of the enemy, consisting of their persons or goods.

In case it so happens in their conflicts that they are taken prisoners, they have the protection of their government that they shall be treated as prisoners of war; and,

in case they should be treated otherwise, their own government would retaliate.

3. **Captures.**—But it is necessary that rules should be adopted concerning captures made, whether on land or water. Congress is authorized by the Constitution to make these rules, which, when made, become laws the same as any other laws ; and, for the purpose of enforcing them, courts of admiralty have been established, whose business it is to inquire into the legality of the course pursued in taking these prizes.

The remedy for illegal acts of capture is by the institution of proper prize-proceedings in the prize-courts of the captors.

4. **Armies.**—The other war-powers vested in Congress would be utterly useless without the power to raise and support armies.

The Constitution says that Congress shall have power to raise and support armies ; but that no appropriation of money to that use shall be for a longer term than two years.

The army is created by enlistments under the Acts of Congress. The enlistment is for five years in the regular army. In November, 1882, this branch of the military service numbered a little over twenty-three thousand men.

5. **Navy.**—Congress has the power to provide and maintain a navy. The navy consists of the entire number of ships-of-war, considered collectively, belonging to a nation or people. A navy is necessary for the protection of our fisheries, commerce, and navigation. We need it not only on the ocean but on our lakes, and on several of our rivers, and this even in time of peace.

But, in time of war, a navy becomes indispensable to a people whose geographical position is like ours. Without it the necessary protection could not be afforded to the great commercial cities on our seaboard. Should an invad-



ing army obtain possession of these they could demand contributions without stint or limit.

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## QUESTIONS.

55. What is a declaration of war ?
56. What is the sovereign power in this country ?
57. In whom is the power to declare war vested ?
58. After a declaration of war, how can the terms of peace be settled ?
59. What are letters of marque and reprisal ?
60. What protection do they afford ?
61. What power decides on the legality of captures ?
62. Who makes the rules concerning them ?
63. What is the remedy for illegal captures ?
64. What does the Constitution say about the power to raise and support armies ?
65. How is the regular army created ?
66. What is the navy ?
67. What is the necessity of a navy ?

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## LESSON 33.

### *POWERS OF CONGRESS—Continued.*

#### VII. War—*Continued.*

6. Rules.—Land and Naval Forces.—By the Constitution, Congress has power to make rules for the government and regulation of the land and naval forces.

Nothing need be said to indicate the policy and necessity of vesting in Congress the power to make rules for the government and regulation of the land and naval forces. It naturally follows the power to raise and support armies, and to provide and maintain a navy.

7. Militia.—*General control.*—Congress is authorized by the Constitution “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."

The country could not safely rely solely on its standing army for any and every emergency that might arise. The Constitution, therefore, gives Congress jurisdiction over the militia of the several States, and this power of providing for organizing, arming, and disciplining them, as incidental to that jurisdiction.

Congress is authorized also to make provision for governing such part of the militia as may be employed in the service of the United States. Rigid discipline and government have always been found necessary in the army, whether constituted of regulars or militia. This government must be uniform to be salutary. To be uniform, it must emanate from a single source.

2. *Calling forth.*—There are three purposes for which Congress may provide for calling forth the militia :—

1st. To execute the laws of the Union.

2d. To suppress insurrections.

3d. To repel invasions.

The nation must have the means of maintaining its authority at home, and carrying on a foreign war. It is not according to the policy of our government to maintain a standing army sufficient to answer these purposes.

The organization of the militia is maintained at an expense comparatively trifling when the advantages to the country are considered. It saves the immense cost of a large standing army in time of peace. The army of the United States numbers at the present time about thirty thousand. The standing armies of the European nations are much larger.

The British army numbers about two hundred thousand

men ; the Austrian army about seven hundred thousand men ; and the Russian army numbers about eight hundred thousand men.

The organization of the militia system in this country is preferred for the following reasons :—

1st. It is far more economical, as it costs but little to maintain it in time of peace.

2d. In time of war, after an experience of a few months in the field, they have proved themselves to be orderly and courageous to the last degree.

3d. The militia constitute a standing and reserved force, subject to the call of the President of the United States under the laws of Congress. These laws define the emergencies under which he is authorized to bring into action this branch of our service. When called into the service of the United States, the President of the United States is commander-in-chief of the militia of the several States as well as of the standing army of the nation.

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## QUESTIONS.

68. What power has Congress over the militia ?
69. Why the necessity of this power ?
70. For what purposes may Congress provide for calling forth the militia ?
71. What are the advantages of the militia system ?
72. What is the number of our army as compared with some European armies ?
73. Why is the militia system preferred in this country ?

## LESSON 34.

*POWERS OF CONGRESS—Continued.*

VIII. Judiciary.	{	1. Inferior Tribunals. 34.
		2. Place of Trial. 71.
		3. Restrictions. 70.

1. **Inferior Tribunals.**—The Constitution *establishes* a Supreme Court ; but it is left with Congress to organize that tribunal. The power is vested in Congress to establish tribunals inferior to the Supreme Court ; and, as these tribunals constitute a part of the national judiciary, they will be considered in the chapter relating to that department of the government. These inferior tribunals consist of circuit and district courts.

2. **Place of Trial.**—Congress has the power to determine by law where the trials of crimes shall be held which are not committed within any State. Crimes committed within any State are to be tried in the State where they are committed, yet they may be committed on the high seas, or within the limits of unorganized territories. This clause of the Constitution gives Congress the power to provide for such cases.

3. **Restrictions.**—The appellate jurisdiction of the Supreme Court is subject to such exceptions and regulations as Congress shall, from time to time, establish by law. This power will be noticed in treating of the judiciary.

## IX. Naturalization. 29.

Naturalization is that legal process by which an alien or a foreigner becomes a citizen of the United States. Congress has exclusive control over this subject. They can determine the forms and the necessary steps to be adopted

in the process, and the time within which it may be completed.

An alien is one who is born in a foreign country, of foreign parentage. Children born in foreign countries of parents who are citizens of the United States absent from home on public business are not aliens.

Under the Confederation, each State determined for itself the conditions on which an alien might become a citizen of the United States. Some required a shorter and others a longer period of time. If New Jersey required one year for naturalization and New York seven, the shortest way to become a citizen of New York would be through naturalization in New Jersey. For, a citizen of any State was a citizen of any other State in which he might become a resident.

Congress having control of this subject under the Constitution, passed a law, in 1790, requiring two years,—in 1795, five years,—in 1798, fourteen years,—and in 1802, that law was passed, which has been in force ever since, requiring five years to complete the process of naturalization.

A soldier, having served one year in the U. S. army, and having obtained an honorable discharge, may become a citizen of the United States on making oath to these facts, and taking the oath of allegiance to our government.

As already stated, five years is the shortest possible time for naturalization. At the end of two years' residence in this country, the alien may make formal declaration of his intention to become a citizen. This he can do in any court having jurisdiction of the subject-matter.

Three years from the time of declaring his intention he may again appear in court, take the oath of allegiance in the proper form, on which he is admitted to full citizenship. If this oath were administered in the county of Monroe,



State of New York, to Thomas S. Wilson, an Englishman, it would be substantially as follows :—

“I, Thomas S. Wilson, do solemnly swear that I will support the Constitution of the United States ; and that I hereby renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state, and sovereignty whatever, and particularly to the Queen of England, of whom I am a subject. So help me, God.

THOMAS S. WILSON.

Sworn to in open court, this eleventh day of June, 1874, before me,

CHARLES J. POWERS, *Clerk of Monroe County.*”

When a foreigner becomes naturalized, his children under twenty-one years of age, if residents of the United States at the time, become citizens without further formality. If a foreigner makes his declaration of intention to become a citizen of the United States, and dies before the time to become naturalized, his wife and children may become citizens at that time on taking the necessary oath.

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## QUESTIONS.

74. What power has Congress over the courts ?
75. What power has Congress over places of trial ?
76. What is naturalization ?
77. What power has Congress over this subject ?
78. What is an alien ?
79. How long does it take an alien to become naturalized ?
80. What is the process of naturalization ?
81. How does naturalization affect other persons of the same family ?

## LESSON 35.

*POWERS OF CONGRESS—Continued.*

<b>X. Territory.</b>	{	<b>1. Government.</b> 79.
		<b>2. Seat of Government.</b> 42.
		<b>3. Public Works.</b> 42.
		<b>4. Alienation.</b> 79.
		<b>5. New States.</b> 78.

**1. Government.** — Ownership of territory by any government, implies the right to govern it ; and the right to govern implies the right to make all needful rules and regulations for that purpose. Hence this provision of the Constitution :—“The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory, or other property, belonging to the United States.”

Since the close of the Revolutionary War the general government has acquired, by one means and another, a vast extent of territory beyond the limits of the original States.

First, by the liberality of the States owning it, the general government acquired that immense region known as the Northwestern Territory. This was before the adoption of the Constitution.

Second, we acquired of France the Louisiana territory.

Third, we purchased Florida of Spain.

Fourth, Texas.

Fifth, California of Mexico ; and,

Sixth, the purchase of Alaska of the Russian government.

The extent of our territory now is over three times what it was at the adoption of the Constitution. It is about three million square miles. It is the duty of Congress to

adopt the necessary rules and measures to govern this vast territory, until such time as, by the increase of its population, it shall be divided and erected into independent States, and admitted into the Union.

2. **Seat of Government.**—The constitutional provision gives Congress the power :—

“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.”

Under this clause, Judge Story says, the cession of the present District of Columbia was made by the States of Maryland and Virginia to the national government ; and the present seat of the national government was established at the city of Washington in 1800. That convenient spot was selected for this very purpose, by the exalted patriot whose name it bears.

The District of Columbia was a tract of land ten miles square, belonging partly to Maryland and partly to Virginia. That part of it obtained from Virginia was re-ceded to that State in 1846 ; so that now the District is confined to the Maryland side of the Potomac.

Before the year 1800, the seat of government had been temporarily established at Philadelphia, Baltimore, Lancaster and several other places. On account of the frequent changes the public suffered great inconvenience.

3. **Public Works.**—The Congress has the same authority, by the Constitution, “over all places purchased by consent of the Legislatures of the States in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.”

Two steps are necessary to obtain a site for any of the foregoing purposes : first, the consent of Congress ; and second, the consent of the Legislature of the State in

which the proposed site is. When the cession is made, the government comes into full possession; and then Congress may exercise over such place exclusive legislation.

Unless the State of which such purchase is made reserves the right, no legal State authority can be exercised in such places, even to the serving of writs of any kind, civil or criminal. But States usually make such reservations; but for which, these places might become retreats and asylums for fugitives from justice who may be guilty of crimes against State authority. Almost every State has more or less of these places within its limits subject to the jurisdiction of national authority.

4. **Alienation.**—The power to dispose of the territory belonging to the United States has been discussed in another place, and therefore need not be repeated here. (See Townsend's Analysis of Civil Government.)

5. **New States.**—"New States may be admitted by the Congress into this Union." Under the Confederation, Canada might have been admitted by "acceding to the Union, and joining in the measures of the United States." But the admission of any other British Province would have required the consent of nine States; but they never made application. No power except that just specified was given to Congress in the Articles of Confederation to admit States into the Union.

As there were immense tracts of vacant territory lying within the chartered limits of several of the States, the omission to confer this power on Congress was doubtless an oversight.

This was a serious omission, as the events of our history since the adoption of the Constitution have proved. By the liberality of the States owning this territory it was early ceded to, and became the common property of the United States. These State cessions began with New

York in 1781, followed by Virginia, Massachusetts, Connecticut, South Carolina, North Carolina, at various dates, and closing with Georgia in 1802.

Since that time, as already stated in another place in this work, we have, by purchase and treaty, added immensely to the territory of the United States.

It was foreseen by the authors of the Constitution, that this power to admit new States into the Union would soon become necessary; and it was accordingly vested in Congress. Under this provision, twenty-five States have been added to the American Union, while we have territory lying outside of the limits of the States sufficient to constitute thirty or forty more of the size of New York.

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## QUESTIONS.

82. What does the ownership of territory imply?
83. What territory did our government acquire before the adoption of the Constitution?
84. What other territory have we since acquired?
85. What is the present extent of our territory?
86. What is the duty of Congress with reference to this vast territory?
87. What power does the Constitution give Congress over the District of Columbia?
88. Over what other places has Congress like authority?
89. How can these be obtained?
90. What reservations do States usually make over these places, and why?
91. What provisions did the Confederation make in regard to the admission of Provinces or new States?
92. At what dates did several of the States make cessions of territory to the United States?
93. How is the necessity of this power shown?



## LESSON 36.

*POWERS OF CONGRESS—Continued.*

<b>XI. States.</b>	{	<b>1. Elections.</b>	{ 1. Members of Congress. 15.
			2. Presidential Electors. 58.
		<b>2. State Records.</b>	{ 1. Method of proving. 74.
			2. Effect of proof. 74.
		<b>3. Imposts and Duties.</b>	53.

**1. Elections.**—1. *Members of Congress.*—It is left with the States to fix the times, places, and manner of holding their elections of Senators and Representatives in Congress; but should they neglect to do this, Congress has jurisdiction over the whole subject, except as to the places of choosing Senators.

Each State can consult its own local convenience with regard to these elections; but it has no right to wholly neglect making the necessary provisions for holding them. Should it do so, and should other States follow the bad example, it is manifest that the affairs of government might suffer serious embarrassment, but for the provision giving Congress jurisdiction over the subject. It would be equivalent to a withdrawal of their representation from the national councils. This would be a violation of a fundamental principle of every sovereignty, which is an inherent right to provide for the perpetuity of its own existence.

The power here given to Congress is simply discretionary, not mandatory; and such a power must be vested somewhere. It is primarily with the States; but ultimately with the National Legislature.

Congress has provided for the election of members of the House of Representatives by congressional districts; and the day of their election is hereafter to be the same throughout the United States.

Recently they have exercised supervision to a limited extent over the manner of electing Senators.

2. *Presidential Electors.*—The Constitution says:—“The Congress may determine the time of choosing the Electors and the day on which they shall give their votes, which day shall be the same throughout the United States.”

Jan. 23, 1845, Congress passed an act specifying that Electors should be elected the Tuesday next after the first Monday in the month of November of the year in which they are to be chosen.

The first Wednesday in December after their election is, by law of Congress, the day fixed on which the Electors shall give their votes. Each State fixes by law the place where these votes shall be given, and they have generally designated the State Capitol.

2. *State Records.*—The Constitution says with reference to this subject:—“Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings, shall be proved, and the effect thereof.”

1. *Method of Proving.*—Under this clause of the Constitution, when a judgment is rendered by any State court in proper form, from which no appeal has been taken to any higher court within the time allowed for appeals, that judgment is conclusive ever after, between the parties to it, as to the matters in controversy. That judgment will be received in evidence when offered in any other court within the limits of the State within which it was rendered.

Under this power, Congress has passed laws defining the manner in which they shall be authenticated, and the effect to be given to their authenticity.

2. *Effect of Proof.*—Congress has declared that they shall have such faith given to them in every court within the United States as they have by law or usage in the courts of the State from which the records are taken.

The effect, therefore, of the proof is this :—That a judgment obtained in a court of competent jurisdiction in one State is valid in every other State in the Union.

3. *Imposts and Duties.*—By the Constitution, States are prohibited from laying any impost or duties on imports or exports without the consent of Congress, except what may be necessary for the execution of their inspection-laws.

If States should attempt to lay burdensome inspection-duties, Congress has the power to pass acts of revision, and, in case it becomes necessary, to control the whole subject.

The subject of impost and duties, we have seen, is exclusively under the control of Congress ; and, should a State attempt by some indirect method to lay duties or impost, Congress has the higher right to control and revise its legislation.

## XII. Executive Vacancy. 60.

If the office of President of the United States is vacated by death, or otherwise, the powers and duties of that office devolve on the Vice-President. But it is possible that both the President and Vice-President might be removed from office ; and the Constitution, therefore, provides for such a possibility in the following language :

“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.”

Under this provision of the Constitution, Congress has provided by law that the President *pro tempore* of the Senate, and, in case there shall be no President of that body, then the Speaker of the House of Representatives, shall act as President until the disability be removed, or a President shall be elected.

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## QUESTIONS.

94. What power has Congress over State elections of members?
95. What is the duty of States as to these elections?
96. How has Congress provided for the election of Representatives?
97. What authority has Congress over the election of Presidential Electors?
98. When must Electors be elected, and when give their votes?
99. What does the Constitution say of State records?
100. What laws has Congress passed on this subject?
101. What is the effect of judgments?
102. What power has Congress over the laws of States in regard to imposts and duties?
103. What power has Congress over the power of Executive vacancy?
104. What law have they passed on the subject?

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## LESSON 37.

### *POWERS OF CONGRESS—Continued.*

#### XIII. Appointments. 64.

The Constitution says:—"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."

These appointments are restricted to inferior officers. The Constitution does not say who are such. It is, there-

fore, left to Congress to define this class. Neither the heads of departments, nor the judges of courts, nor ambassadors to foreign countries, are inferior officers. They doubtless include clerks of departments, clerks of court, and some other officers.

#### XIV. Constitutional Amendments. 81.

Congress has no power to alter or amend the Constitution; but they can take the initiatory steps. They can submit propositions to the States for this purpose, whenever, in the estimation of two-thirds of the members of both Houses, amendments become necessary.

If two-thirds of both Houses deem it necessary that any amendments should be made to the Constitution, the amendment proposed is drawn out in due form under the direction of Congress and proposed to the Legislatures of the several States for their ratification or rejection; or the proposed amendments may be submitted to State conventions called for that purpose.

Or, on the application of the Legislatures of two-thirds of the several States, made to Congress, it is the duty of that body to call a convention whose business it shall be to propose amendments.

It is further the duty of Congress, by whichever body the amendments shall be proposed, to declare whether they shall be submitted to State Legislatures or to State Conventions.

When these new amendments are ratified by the Legislatures of three-fourths of the States, or by conventions in three-fourths thereof, they become, to all intents and purposes, part of the Constitution.

Thus far, fifteen Articles of Amendments have been adopted. These have all originated with Congress, and have been ratified by State Legislatures.



**XV. Slavery.** { 1. *Slave-trade.* 44.  
2. *Abolition.* 97.

The Constitution, as it came from the hands of its authors, in 1787, recognized slavery as a State institution. True, the word *slave*, or *slavery*, is not in the instrument. These words were carefully and intentionally omitted.

In the thirteenth Article of Amendments, the word *slavery* appears for the first time in the Constitution; and that Article abolishes the institution throughout the United States and their territories.

This amendment gives Congress legislative authority over the subject. As four or five millions of men, women, and children, were suddenly transferred from slavery to freedom, it was presumed that national legislation would become necessary to protect them in their new condition. Congress has already exercised this power in the passage of several statutes on the subject.

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## QUESTIONS.

105. In whom may Congress vest the appointment of inferior officers?
106. What power has Congress over constitutional amendments?
107. When, and how, may it be exercised?
108. How many amendments have been adopted?
109. Where, and for what purpose, does the word slavery appear in the Constitution?

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## LESSON 38.

### *POWERS OF CONGRESS—Continued.*

#### **XVI. General Law-making. 43.**

By the forty-third paragraph of the Constitution as numbered in this work, and which it is not necessary to

repeat here, it will be seen that the whole subject of law-making, for the purpose of carrying into effect the provisions of the Constitution, is vested in Congress.

As it is impossible to specify in the fundamental law of a nation *all* the powers which, at some time, it may be indispensably necessary to exercise for the common good, this provision seems to be among the wisest to be found in the Constitution.

Had the attempt been made to enumerate affirmatively all laws necessary and proper which Congress might pass, it must have resulted in failure.

An eminent jurist says it would have rendered necessary a complete digest of all laws on every subject to which the Constitution relates. It must have embraced all future as well as all present exigencies, and been accommodated to all times and all occasions, and all changes of situation and character.

**XVII. Meeting.** { **1. Frequency.** 16.  
                           { **2. Time.** { 1. By the Constitution. 16.  
   { 2. By law. 16.

Constitution : "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."

On extraordinary occasions, the President of the United States may convene either or both Houses of Congress. But a bad President might desire to have no Congress during his administration. In such case, there would be a practical demonstration of the necessity of the foregoing provision.

Again, it seems necessary that the Constitution should contain some such provision, as, otherwise, the two Houses might not agree in reference to the time of assembling. By this provision, if they can not agree on any other time, they must meet the first Monday of December.

The place of meeting is not designated, and probably for two reasons : first, the seat of the national government had not been established at the time when the Constitution was formed ; and second, war or pestilence might at times interfere with the meeting at any place that might be named in the Constitution.

In England the sovereign convenes and dissolves Parliament at pleasure.

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## QUESTIONS.

110. What power does the forty-third paragraph of the Constitution give to Congress over general law-making?
111. How often, and when, must Congress meet?
112. Why was it necessary the Constitution should specify a time of meeting?
113. Why is not the *place* of meeting named?

# BLACKBOARD EXERCISE.

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## LAW - MAKING.

**First Process.** {  
1. Action in Congress. 24.  
2. Delivery to Executive.  
3. Executive Signature.

**Second Process.** {  
1. Action in Congress. 24.  
2. Delivery to Executive.  
3. Executive Veto.  
4. Record of Veto.  
5. Reconsideration.  
6. Approval by Congress.  
7. Method of Voting.  
8. Record of Votes.

**Third Process.** {  
1. Action in Congress. 24.  
2. Delivery to Executive.  
3. Executive neglect.  
4. Effect of neglect.

**Orders, Resolutions, and  
Votes.** {  
1. Action in Congress. 25.  
2. Delivery to Executive.  
3. Executive Veto.  
4. Subsequent Action.

## CHAPTER XIII.

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### LESSON 39.

#### *LAW-MAKING.*

BY reference to paragraph 24 of the Constitution it will be seen that a bill may become a law through any one of the three following processes :

#### **First Process.**

1. The bill shall pass both Houses of Congress.
2. It shall then be presented to the President.
3. If he approve, he shall sign it.

#### **Second Process.**

1. The bill shall pass both Houses of Congress.
2. It shall then be presented to the President.
3. If he disapprove it, he shall return it, with his objections, to that House in which it originated.
4. That House shall enter objections at large on their journal.
5. They shall proceed to reconsider it ; and if, after such reconsideration, two-thirds of the House shall agree to pass it, it shall be sent, with the objections, to the other House.
6. The other House shall reconsider the bill ; and if approved by two-thirds of that House, it shall become a law.



7. The votes of both Houses shall be determined by the yeas and nays in all such cases.

8. The names of the persons voting for and against the bill shall be entered on the journal of each House respectively.

### Third Process.

1. The bill shall pass both Houses of Congress.
2. It shall then be sent to the President.
3. He neglects to approve or return it.
4. It becomes a law at the end of ten days (Sundays excepted), unless Congress, by adjournment within that time, prevent its return.

A bill is the draft of a proposed law. It is usually, though not always, introduced by the chairman of the committee who properly has the subject-matter of the bill in charge. As to what committee will introduce it depends on the character of the bill. If it relate to commerce, the committee on commerce would be the proper one to originate and introduce it. A bill may be amended by either House; but if amended by one House after having passed the other, it must be returned with the amendment to the House it had before passed for their concurrence.

After it has passed both Houses it is sent to the President of the United States for his approval and signature. He can not make or propose amendments.

At any time during the pendency of a bill, amendments to it may be proposed, and passed, by either House.

A bill in Congress must receive three several readings before it is put upon its final passage. No bill can be read more than once on the same day without the special permission of the House. The vote is taken on its third reading. The arguments for and against the bill, if any, are made before its third reading, or between its third reading and the taking of the vote.

The second process of law-making is the one in which the President's veto, as it is commonly called, is interposed. To become a law in opposition to the President's objections requires a vote by yeas and nays of two-thirds of each House. So, the President's veto is only qualified—not absolute.

This executive power may operate, and indeed it has sometimes, as a salutary check on hasty legislation. The Executive, not having participated in the rivalry of debate, and being quietly retired from the scenes of political strife, may be presumed to be better qualified to pronounce correct judgment than those who were active in the contest.

The third process of law-making differs from the other two simply through the inaction of the President. If he neglect to sign and return the bill for ten days, Sundays excepted, it becomes a law as though it were signed by him—unless the Congress, by their adjournment, prevent its return, in which case it fails to become a law.

### **Orders, Resolutions, and Votes.**

The Constitution says:—"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 re-passed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill."

Were it not for this provision, Congress might exert their power in the form of orders, resolutions, or votes; thus preventing the President from interposing his veto. They could thus substantially legislate in these forms without the sanction of the Executive, and without the necessity of a vote of two-thirds of each House.

## QUESTIONS.

1. What is the first process of law-making?
2. What is the second process of law-making?
3. What is the third process?
4. What is a bill?
5. By whom is it generally introduced?
6. What is said about amendments?
7. What is done with the bill after it has passed both Houses?
8. What may be done during the pendency of a bill?
9. What is said about the readings of a bill?
10. What is said about the President's veto?
11. What may be the effect of the veto power?
12. Why is the President the best judge?
13. How does the third process of law-making differ from the first two?
14. What does the Constitution say about orders, resolutions, votes?
15. But for this provision what might Congress do?

# BLACKBOARD EXERCISE.

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## PROHIBITIONS ON THE UNITED STATES.

I. Habeas Corpus. { 1. Rebellion. 45.  
2. Invasion. 45.

II. Export Duties. 48.

III. Inter-State Commerce. 49.

IV. Public Money. { 1. Drawing. 50.  
2. Published Statement. 50.  
3. For Armies. 37.

V. Nobility. 51.

VI. Penalties. { 1. Bill of Attainder. 46.  
2. *Ex-post-facto* Law. 46.  
3. Attainder of Treason. 73.

VII. Foreign Slave-trade. 44, 81.

VIII. Repudiation. { 1. Forbidden. { 1. Land-claims. 79.  
2. Contracts. 82.  
3. Public debt. 101  
2. Enjoined. 101.

IX. Freedom. { 1. Religious. 86.  
2. Civil. 86.

## CHAPTER XIV.

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### LESSON 40.

#### *PROHIBITIONS ON THE UNITED STATES.*

**I. Habeas Corpus.** { **1. Rebellion.** 45.  
                              { **2. Invasion.** 45.

**C**ONSTITUTION : “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* is a writ of relief. A person may be wrongfully imprisoned before he is tried on the crime with which he is charged. He may be innocent or guilty; but in either case it may happen that he is restrained without the proper forms of law, and without sufficient legal authority.

This is a kind of intermediate writ or proceeding under which the lawfulness of his imprisonment may be tested, between the moment of the prisoner's arrest and the time of final trial. Proceedings under this writ are not for the purpose of determining upon the guilt or innocence of the accused. But they are for the purpose of settling whether he is properly or improperly held for trial.

Persons are sometimes unlawfully restrained of their liberty, though charged with no crime whatever; as, improperly holding a child in custody, or locking a person in a room.



The privilege of this writ is the birth-right of every American citizen. It is a kind of writ of inquiry ; and it is the duty of every court of competent jurisdiction to issue it on proper application. The only exceptions to this statement are those specified in the foregoing clause of the Constitution.

If the court, on inquiry, decides that the prisoner is properly restrained, he is remanded to imprisonment ; but if improperly restrained, the court sets him at liberty.

1. Rebellion.—Rebellion here means open, active hostility, and defiant opposition to the government. It is an uprising of a considerable portion of the citizens of a country against its authority. In cases of rebellion or invasion, it may be necessary to temporarily suspend the privilege of this writ. In such an emergency, oftentimes, the government knows not whom to trust. There may be well known leaders of organized opposition whose every act may be so veiled in secrecy as to defy detection. Clear and tangible proof of their guilt, perhaps, can not be obtained, yet they are as well known to be secretly and earnestly opposed to the war measures of the government as though their hostility were of a more open and public character. If, on the arrest of such public enemies, they could avail themselves of the writ of *habeas corpus*, it might defeat the very ends of justice and render the government unable to protect itself.

The power of suspension of the privilege of this writ was vested by Congress in the President of the United States during the great rebellion from 1861 to 1865.

2. Invasion.—Invasion, as used in the Constitution, means the entry of a hostile force of a foreign nation into our territory. Under such a condition of things, the suspension of the privilege of this writ may be as necessary to the welfare of the government as in cases of rebellion.

**II. Export Duties. 48.**

Constitution : “ No tax or duty shall be laid on articles exported from any State.”

The intention of this prohibition is to prevent taxing the interests of any State to its detriment, and giving undue advantages to others. The productions of some of the States are very different from those of others ; and, were export duties allowed to be enforced, the burden of taxation would be as unequal as the exports. It would be impossible to so adjust export duties, were they allowed, as to distribute the burdens equally.

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**QUESTIONS.**

1. Recite the 45th paragraph of the Constitution ?
2. Give a full explanation of a writ of *habeas corpus* ?
3. Under this writ, what is done by the court if the prisoner is improperly restrained ?
4. What, if properly restrained ?
5. What is rebellion ?
6. When, and why, may the privilege of this writ be suspended ?
7. Who may suspend the privileges of this writ ?
8. What does invasion here signify ?
9. What does the Constitution say about export duties ?
10. What is the intention of this prohibition ?
11. What is said about State productions ?

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**LESSON 41.**
*PROHIBITIONS—Continued.***III. Inter-State Commerce. 49.**

Constitution : “ 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."

Although the power to regulate commerce among the States is vested in Congress, yet that power is coupled with these constitutional prohibitions:—No preference shall be given to the ports of one State over another; nor shall entrance or clearance fees, or the payment of duties, be required in an intermediate State while vessels are passing from one State to another.

A vessel bound to Philadelphia from Liverpool, in passing Boston or New York, can not be compelled to enter, clear, or pay duties in either of the last two ports named. The duties must be paid in Philadelphia, the port to which the vessel is bound.

**IV. Public Money.** { **1. Drawing.** 50.  
**2. Published Statement.** 50.  
**3. For Armies.** 37.

Constitution: "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."

"No appropriation of money to that use (to raise and support armies) shall be for a longer term than two years."

**1. Drawing.**—The object of this provision is to secure strict faithfulness in the public expenditures. Neither the Executive, nor the judiciary, nor the heads of departments nor even members of Congress themselves, can draw a dollar of the public money except by appropriations made by law.

**2. Published Statement.**—This provision puts a salutary check on the possible profusion and extravagance of the national legislature. The people have the right to know how, and for what purposes, their money is expended.

The heads of the departments must make an annual exhibit of their transactions respectively.

3. **For Armies.**—The fear that the army might possibly become a power too formidable to be consistent with the rights and liberties of the people, led to this constitutional limitation of army appropriations. Lest Congress may be extravagant in this direction, or the administration acquire too much power over the army, they are forbidden to make appropriations extending beyond the period of two years.

A Congress lasts for but two years ; and, should they be profuse in their appropriations of army money, the people will be likely to correct the error in their election of the succeeding Congress.

## V. Nobility. 51.

Constitution : “No title of nobility shall be granted by the United States.”

The government instituted in this country at the close of the Revolutionary War, and which took definite form in the Constitution of the United States, was intended to be characterized for republican simplicity. The theory of our institutions is, all citizens are equal before the law. Orders of nobility are forbidden in accordance with this theory.

## VI. Penalties. {

1. **Bill of Attainder.** 46.

2. **Ex-post-facto Law.** 46.

3. **Attainder of Treason.** 73.

1. **Bill of Attainder.**—Constitution : “No bill of attainder, or *ex-post-facto* law, shall be passed.”

A bill of attainder, which is here forbidden, is a phrase borrowed from England. It is a special act of the legislative body, inflicting capital punishment on a person for high crimes, without having been first convicted before a

court of law. This kind of proceeding was very common in England two or three hundred years ago.

A person against whom such an act was passed was said to be attainted and outlawed. The victim's blood became so corrupted, that he could neither inherit anything from his ancestry, nor transmit by hereditary descent to his heirs. All his property, real and personal, was forfeited to the crown.

2. *Ex-post-facto* Law.—An *ex-post-facto* law is one that is retroactive, and which makes an act criminal which was not so when committed ; or it increases the severity of the punishment which attached to the crime when it was committed. Both the United States and the several States are forbidden by the Constitution to pass such a law.

3. *Attainder of Treason*.—Constitution: "No attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

Treason is defined by the Constitution ; but its punishment by Congress. But this clause of the Constitution defines what penalties shall not attach to this crime. By the laws of England treason was punishable by death in many horrid forms. But the penalty was not limited to the death of the victim. By fiction of law his blood became so corrupted that all powers of transmission of property to his kindred were destroyed. But our Constitution forbids the punishment of the innocent for the crimes of the guilty.

In affirmance of this clause of the Constitution, Congress has passed laws strictly limiting the punishment to the party convicted ; so that in no legal sense can it reach his posterity.



## QUESTIONS.

12. What does the 49th paragraph of the Constitution say?
13. What is said of the payment of duties at intermediate ports?
14. What restrictions does the Constitution impose in regard to the disbursement of public money?
15. What is the object of this provision?
16. What is said in regard to published statements?
17. By whom are the statements published?
18. What is said of the appropriations for armies?
19. Why is the appropriation of money limited to two years?
20. What does the Constitution say of titles of nobility?
21. What is the theory of our government?
22. What is said about bills of attainder, and *ex-post-facto* laws?
23. What are they?
24. What was the consequence of a bill of attainder in England?
25. What does the Constitution say about attainder of treason?
26. Who declares the punishment for treason?

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### LESSON 42.

#### *PROHIBITION—Continued.*

#### VII. Foreign Slave-trade. 44, 81.

As slavery and the slave-trade are entirely abolished, the clauses of the original Constitution relating to the slave-trade have long since become obsolete. They are inserted here merely as matter of history and not as of present, binding obligation. The following are the only clauses that refer to this subject: "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."

There is another clause in Article V. of the Constitution which prohibits any amendment to the foregoing clause prior to the year one thousand eight hundred and eight. The student will find it in the 81st paragraph. After prescribing the manner in which the Constitution may be amended, it contains the following restriction, which refers to the clause just given in full :

“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.”

The word *persons* in the first foregoing quotation from the Constitution, is but another word for *slaves*. At the time of the adoption of the Constitution, slaves were held by authority of law in every State excepting Massachusetts ; and the slave-trade, that is, importing negroes from Africa, was sanctioned by all, or nearly all, the nations of Christendom.

But towards the close of the eighteenth century, the slave-trade began to excite a spirit of disapprobation ; and the conviction fastened itself on the consciences of men, that this traffic in human beings was repugnant to the principles of Christian obligation. Many of the great and good men who formed the Constitution of the United States shared in this conviction.

Hence the foundation was laid in our Constitution, in the clause just given, by which the legality of the African slave-trade was to end in this country with the dawn of the year 1808.

By Act of March 2, 1807, Congress prohibited, under severe penalties, the importation of slaves into the United States from and after Jan. 1, 1808. In 1818 another act was passed making the penalties more severe ; and in 1820, Congress defined the slave-trade to be piracy and attached to it the penalty of death.

On the 18th of Dec., 1865, William H. Seward, Secretary of State, officially announced to the country that the thirteenth Article of Amendments had been ratified by the Legislatures of three-fourths of the several States, and had become, to all intents and purposes, a part of the Constitution of the United States.

By that article, slavery was abolished throughout the United States, and in all places subject to their jurisdiction.

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## QUESTIONS.

27. What is said about slavery and the slave-trade ?  
 28. When was the slave-trade abolished by Congress ?  
 29. When was slavery abolished ?

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## LESSON 43.

### *PROHIBITIONS—Continued.*

<b>VIII. Repudiation.</b>	{	<b>1. Forbidden.</b>	{	1. Land-claims. 79. 2. Contracts. 83. 3. Public debt. 101.
		<b>2. Enjoined. 101.</b>		

1. **Forbidden.**—1. *Land-claims.*—The following is found in paragraph 79 of the Constitution: “Nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.”

This is a part of a clause in which the authority is given to Congress to dispose of territory belonging to the United States. This provision relates to conflicting claims and unsettled titles to some parts of the Western Territory. The intention of this clause is to give assurance that the adoption of the Constitution shall in no way affect the validity of any claims to these lands, but that the rights

of parties interested shall be the same as they were under the Confederation.

2. *Contracts.*—On the matter of repudiating contracts existing under the Confederation, the language of the Constitution is thus: “All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States, under this Constitution, as under the Confederation.”

This clause is intended to give assurance to the creditors of the proposed new government that all just claims against the Confederation will be recognized and liquidated under the Constitution.

This is in accordance with well-settled law, binding on all nations, notwithstanding any changes in their forms of government.

3. *Public Debt.*—Constitution: “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 and rebellion, shall not be questioned.”

2. *Enjoined.*—Constitution: “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 or emancipation of any slave.”

The repudiation here enjoined, if such it is, was made a part of the fourteenth Article of Amendments so as to prevent all future Congresses and State Legislatures from making any attempt to legalize any State or individual contracts, express or implied, assumed in the interest of the great rebellion of 1861.

Hundreds of millions of obligations of this character were contracted by the Southern Confederacy and by several of the States that espoused the cause of opposition to the United States.

This clause operates as a severe pecuniary penalty upon those who had such faith in the success of the insurrection as to induce them to invest their means in Confederate bills and bonds. It is also intended to operate as a premium for allegiance to the government and authority of the United States. It secures this end by exonerating debtors from all debts and obligations incurred in aid of the lost cause.

No judicial tribunal, State or National, has power to render judgment in favor of parties seeking to enforce such demands.

**IX. Freedom.** { **1. Religious.** 86.  
                          { **2. Civil.** 86.

**1. Religious.**—Constitution : “ No religious test shall ever be required as a qualification to any office or public trust under the United States.”

“ Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”

**2. Civil.**—In paragraph 86 of the Constitution, Congress is expressly forbidden to pass any law abridging the freedom of speech or of the press.

But this does not exonerate from personal and pecuniary responsibility any person who may speak slanderous words, or publish libelous matter against the fair fame of another. The law holds every man strictly amenable for the abuse of this freedom of speech and of the press. If men will slander and libel others, the law says they must pay for it.

In the same paragraph of the Constitution, Congress is forbidden to pass any law denying the right of the people peaceably to assemble and to petition the government for a redress of grievances. This is what is called the right of petition.

Constitution : “ 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.”



This paragraph of the Constitution refers to an organization of the militia of the States. Fears have been expressed, that the liberty of the people might be destroyed by the perverted power of a formidable standing army. The militia, that might be called out at any time on a month's notice, would outnumber, twenty to one, any standing army in time of peace that will ever be tolerated in the United States.

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## QUESTIONS.

30. What are the clauses in the Constitution in reference to repudiation?
31. What is the language of the Constitution enjoining repudiation?
32. Why is this repudiation enjoined?
33. What does the Constitution say about religious freedom?
34. What does the Constitution say about freedom of speech, and of the press, and of the right of petition?
35. What does it say about the right to bear arms?
36. To what does this refer?
37. What is the utility of the militia system?

# BLACKBOARD EXERCISE.

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## *R I G H T S O F S T A T E S .*

I. Representation. { 1. House. 5.  
2. Senate. 8.

II. Privileges of Citizenship. 75, 98.

III. State Amity. 74.

IV. New States. { 1. By Dismemberment. 78.  
2. By Junction. 78.

V. Election. 15.

VI. Militia. { 1. Militia Officers. 41.  
2. Training Militia. 41.

VII. Federal Protection. { 1. Government. 80.  
2. Invasion. 80.  
3. Domestic Violence. 80

VIII. Fugitives. { 1. From Justice. 76.  
2. From Service. 77.

IX. Reservations. { 1. Rights Enumerated. 94.  
2. Powers not Delegated. 95.

## CHAPTER XV.

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### LESSON 44.

#### *RIGHTS OF STATES.*

**I. Representation.** { **1. House. 5.**  
                                  { **2. Senate. 8.**

**1. House.**—Constitution: “The House of Representatives shall not exceed one for every thirty thousand; but each State shall have at least one Representative.”

This quotation from the Constitution is found in paragraph 5. It is not here declared that there shall be one Representative for every thirty thousand, but that the proportion shall not exceed that. The population of the United States has increased eight or ten fold since the adoption of the Constitution. It now numbers over fifty millions.

Were the proportion of representation in the House at the present time one for every thirty thousand, the number of Representatives would be over sixteen hundred,—a body far too numerous for the convenience of deliberative legislation.

The ratio of representation is now one member for 151,911 persons. (See page 66.) When there is a full membership of the House, under its present organization, it consists of three hundred and twenty-five members. As the population increases from decade to decade, the proportion of representation must be correspondingly reduced.

Some of the States have not a population of sufficient number to give them the right to one Representative, that is, they have each less than one hundred fifty-one thousand. But the Constitution says that each State shall have at least one Representative.

2. Senate.—Constitution : “The Senate of the United States shall be composed of two Senators from each State.”

This is an unamendable clause of the Constitution. By reference to paragraph 81, it will be seen that no State can, without its consent, be deprived of its equal suffrage in the Senate.

The number of Representatives from any State depends on the population of that State. The large States, therefore, have a greater number than the small States. The small States vigorously opposed this in the Convention that formed the Constitution. It was giving the larger States a great advantage in the House. But the opposition was withdrawn on the larger States consenting to equality of suffrage in the Senate, and that this provision should be unalterable. This is a right of States not to be voted away by majorities however large.

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## QUESTIONS.

1. What does the Constitution say about representation in the House?
2. What has been the increase of the population of the United States?
3. What would be the number of Representatives in Congress if we were now to have one for every thirty thousand?
4. Of how many members does the House consist?
5. What is the present proportion of representation?
6. How is the Senate composed?
7. Why may not this be changed?
8. What compromise was made between the larger and smaller States?

## LESSON 45.

*RIGHTS OF STATES—Continued.***II. Privileges of Citizenship. 75, 98.**

Constitution : “The citizens in each State shall be entitled to all the privileges and immunities of citizens of the several States.”

“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.”

The purpose of these clauses is to create a general national citizenship. Perhaps it does not so properly come under the rights of States as the rights of citizens derived from the States.

A person being a citizen in one State of the Union may remove to any other without prejudice to his social, pecuniary, or political rights in his new home.

He may purchase, hold, convey, and inherit property, and enjoy all other rights arising from citizenship, the same as though he were born or naturalized in the State to which he migrates.

**III. State Amity. 74.**

Constitution : “Full faith and credit shall be given in each State to the acts, records, and judicial proceedings of every other State.

By this provision,

1st. A State has the right to demand of another State that its acts, records, and judicial proceedings, shall be respected, and that full faith and credit shall be given to them.

2d. Individuals may demand the same, when that demand is necessary to the vindication of their rights.



3d. States on whom such demands are properly made are under obligations to heed and respect them.

A judgment rendered by a court in Massachusetts, for instance, would be conclusive in New York, provided the courts of Massachusetts would hold it conclusive.

**IV. New States.** { **1. By Dismemberment.** 78.  
**2. By Junction.** 78.

Constitution : "No new State shall be formed or erected within the jurisdiction of any other State ;

Nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned."

**1. By Dismemberment.**—The first clause above was inserted by the Constitutional Convention to quiet the fears of the larger States that their territories might be dismembered for the purpose of increasing the number of States.

Notwithstanding this guaranty to States against dismemberment, the State of Virginia was dismembered in 1863, and West Virginia, a part of the original State, was admitted into the Union as an independent State. But that was a revolutionary measure, growing out of the great rebellion, in which Virginia professed to secede from the Union, and enlisted in the cause of the Southern Confederacy. (See Townsend's Analysis of Civil Government.)

**2. By Junction.**—No new State has ever been formed by the junction of two or more States. The second provision above was inserted to quiet the fears of the smaller States, that a junction of States might take place without their consent, and thus their sovereignty be destroyed.

## QUESTIONS.

9. What does the Constitution say about privileges of citizenship?
10. What is the purpose of these clauses?
11. What is the consequence of this national citizenship?
12. What is said of State Amity?
13. What authority does the provision give to States and individuals?
14. What are the prohibitions in regard to new States?
15. What is the object of the first clause?
16. What is said about West Virginia?
17. What is the object of the second provision?

## LESSON 46.

*RIGHTS OF STATES—Continued.*

## V. Election. 15.

Constitution: "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 choosing Senators."

This clause gives the regulation of the election of Senators and Representatives primarily to the legislative authority of the several States. Should they fail to exercise it, however, or exercise it improperly, the interests of the country would justify the interposition of Congress.

VI. Militia. { 1. Officers. 41.  
                  { 2. Training. 41.

By the 41st paragraph of the Constitution, Congress has power: "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 appoint-

ment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.”

1. **Militia Officers.**—As the national government is to depend on the several States for the militia, it seems proper that the officers who are to train and discipline them should be appointed by the States. This arm or power of national security is in some sense a local police force, a means of State defense, for the proper organization and discipline of which the several States are responsible to the national authority.

2. **Training Militia.**—But in order that there may be uniformity of organization and discipline, it is left with Congress to prescribe the mode. In case of invasion by a foreign power, or a wide-spread rebellion, the militia of States distant from each other may be placed side by side in the same army. Hence the necessity of uniformity of discipline, and of its being under the direction of a single power, instead of being distributed among the several States.

**VII. Federal Protection.** { 1. **Government.** 80.  
2. **Invasion.** 80.  
3. **Domestic Violence.** 80.

Constitution : “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 can not be convened), against domestic violence.”

1. **Government.** — The United States is one great political family, and each State is a member of that family ; and each member has the right of protection from invasion without or insurrection within.

This is one of those State rights that give assurance of the stability and solidity of the State governments, as well as the perpetuity of the Federal Union.

2. **Invasion.**—The States have the right of Federal protection against foreign invasion. They can not declare war, nor even engage in it as States, unless the danger is so imminent as not to admit of delay. For the surrender of this right, it is but reasonable that the national government should pledge its power to defend them.

3. **Domestic Violence.**—Perhaps there is more danger of insurrectionary outbreaks under a republican form of government, than under any other. Enjoying, as the people do, a greater degree of freedom under this than under other forms of government, that freedom is correspondingly more liable to be abused.

Our history has, in several instances, demonstrated this liability. The national aid has been invoked and Federal relief has been afforded to the States in several cases since the formation of our government.

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## QUESTIONS.

18. What does the Constitution say about elections?
19. What is the order in which this power is conferred?
20. What rights are reserved to the States in regard to the militia?
21. Why is this reservation proper?
22. Who prescribes the mode of discipline, and why?
23. What does the Constitution say about Federal protection?
24. Of what does this give assurance?
25. How are the States restricted as to war?
26. What pledge have the States for the surrender of this right?
27. What is said about danger of insurrection under a republican form of government?
28. What has our history shown as to this danger?

## LESSON 47.

*RIGHTS OF STATES—Continued.*

VIII. Fugitives. } 1. From Justice. 76.  
 } 2. From Service. 77.

1. From Justice.—Constitution : “ A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime.” +

Provisions have been made by Congress to enforce the foregoing paragraph. An act was passed Feb. 12, 1793, by which,

1st. The Executive of the State in which the crime is committed, must make demand for the return of the criminal on the Executive of the State, to which the criminal has fled.

2d. The demand must be accompanied with a copy of the indictment against the criminal ; or,

3d. By an affidavit made before a magistrate, charging the person demanded with having committed the crime, and having fled from justice.

4th. The copy of the indictment, or the affidavit, must be certified by the Governor or chief magistrate making the demand, to be authentic.

5th. When this is done, it is the duty of the Executive of the State to which the person has fled, to cause the accused to be arrested and secured.

6th. It is the duty of the Executive causing the arrest to give notice thereof to the Executive making the demand, or to his agent.

7th. Following these proceedings, the person charged



with the crime is delivered over for trial to the State authorities from which he fled.

**2. From Service.**—Constitution: “No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.”

This paragraph refers to slaves exclusively. Acts of Congress have been passed and amended to enforce this provision. But they were all repealed in 1864; the next year after which, slavery was abolished in this country. This provision of the Constitution, therefore, is now superseded.

**IX. Reservations.** { **1. Rights Enumerated. 94.**  
**2. Powers not Delegated. 95.**

**1. Rights Enumerated.**—Constitution: “The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.”

In several paragraphs of the Constitution, certain rights are enumerated as reserved to the States; and but for the foregoing provision it might possibly be inferred that all rights were surrendered by the States to the general government, except those included in such reservations. This amendment was adopted for the purpose of guarding against such possible construction. All such rights are reserved to the States, as are not expressly, or by necessary implication, taken away.

**2. Powers not Delegated.**—Constitution: “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.”

Cases of doubtful authority may arise between a State

and the United States. This amendment to the Constitution furnishes a rule of interpretation in such cases.

The powers of the national government are limited, being conferred by the people of the several States, and enumerated in the Constitution as far as practicable. Of course all the means necessary to carry into execution the spirit of the Constitution, are not, and could not be, expressly named.

For instance, the power to regulate commerce is expressly given to Congress; and while some of the means to carry this power into effect are enumerated, they are not all specified. Nor is this necessary, for a power conferred always implies the right to adopt the requisite means to make that power effective.

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## QUESTIONS.

29. What does the Constitution say about fugitives from justice?
30. What steps must be taken to secure the return of fugitives from justice?
31. What is said about the return of fugitives from justice?
32. What does the Constitution say of the enumeration of certain rights therein?
33. What is the object of this provision?
34. What rights are reserved to the States?
35. What is said in the Constitution of powers not delegated?
36. What rule does this furnish?
37. What is said of the national powers?
38. What is said about powers, and means for carrying them into execution, being expressed?
39. What instance is given as an illustration?
40. What does a power conferred imply?

# BLACKBOARD EXERCISE.

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## *STATE SUBORDINATION.*

I. State Obligations. { 1. U. S. Constitution. 85.  
2. Amendments. 81.

II. Supremacy of U. S. Authority. 83.

III. Official Oath. { 1. State Legislators. 84.  
2. State Executives. 84.  
3. State Judicial Officers. 84.

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## CHAPTER XVI.

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### LESSON 48.

#### *STATE SUBORDINATION.*

I. State Obligations. { 1. U. S. Constitution. 85.  
2. Amendments. 81.

1. U. S. Constitution.—Constitution: “The ratification of the Conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.”

The origin of the obligations of the States to the general government is founded in their assent to the Constitution of the United States. Before ratifying the Constitution, the States were at liberty to make their choice; they could come into the Union, or stay out. Should they refuse their assent to the terms of national association, they would each be an independent political

division, having all the attributes and prerogatives of sovereign States. But, having accepted the terms of union, they became subordinate to the national authority.

2. **Amendments.**—In the 81st paragraph, the Constitution provides for its own amendment. When an amendment is regularly made, being ratified by the Conventions or Legislatures of three-fourths of the several States, it must be obeyed by all the States, as, to all intents and purposes, a part of the Constitution. It is equally binding on the States that do not ratify it, as on those who do give it their sanction ; for, by coming into the Union, they solemnly agreed to the terms on which this Great Charter might be amended.

## II. Supremacy of U. S. Authority. 83.

Constitution : “This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land ; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.”

Here is a solemn declaration of the binding and supreme authority of the Federal government over all State authority,—

1. Of the Constitution of the United States ;
2. All laws made in pursuance of it ;
3. All treaties made under it ; and
4. In case of collision by authority between the United States, acting constitutionally, and any particular State, the former is supreme. And the judges of every State are bound to so interpret the law. Were State authority supreme, the national government would be characterized for weakness and imbecility.

III. Official Oath. { 1. State Legislators. 84.  
 { 2. State Executives. 84.  
 { 3. State Judicial Officers. 84.

Constitution : "The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all Executives and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

We see by this passage that not only Senators and Representatives in Congress, and all executive and judicial officers of the United States must be bound by oath or affirmation to support the Constitution ; but that all members of the several *State* Legislatures and all State executive and judicial officers are required to assume the same obligation.

This is but a reasonable requirement ; because the members and officers of the State governments have an essential agency in giving effect to the Federal Constitution.

The election of the President of the United States and Senators in Congress will depend, in all cases, on the Legislatures of the several States.

In many cases the election of the House of Representatives may be effected by their agency.

The Judges of the State courts will frequently be called upon to decide upon the Constitution and laws and treaties of the United States, and upon rights and claims growing out of them. Decisions ought to be uniform, as far as possible ; and uniformity of obligation will greatly tend to such a result.

The executive authority of the several States may be often called upon to exert powers or allow rights given by the Constitution, as in filling vacancies in the Senate during the recess of the Legislature ; in issuing writs of election to fill vacancies in the House of Representatives ;



in appointing officers of the militia ; and in the surrender of fugitives from justice.

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## QUESTIONS.

1. Of how many States was assent to the Constitution required, to form the Union.
2. What is the origin of the State obligation to the Federal Union ?
3. Had they not ratified the Constitution, what would have been the condition of the States ?
4. What was the result of their acceptance ?
5. What provision does the Constitution make for its own amendment ?
6. On whom are the amendments binding ?
7. What passage in the Constitution establishes the supremacy of the U. S. authority ?
8. What would be the result if State authority were supreme ?
9. What does the Constitution say about official oaths ?
10. Why is the requirement reasonable as to State officers ?
11. What depends on the Legislatures of the several States ?
12. What may be the duties of the State judges ?
13. What duties belong to State Executives ?

# BLACKBOARD EXERCISE.

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## STATE PROHIBITIONS.

I. State Relations. 52, 54.

II. Commercial. {  
1. Coining Money. 52.  
2. Bills of Credit. 52.  
3. Tender. 52.  
4. Contract Obligations. 52.

III. War. 52, 54.

IV. Penalties. {  
1. Bill of Attainder. 52.  
2. *Ex-post-facto* Law. 52.

V. Nobility. 52.

VI. Duties. {  
1. Imports and Exports. 53.  
2. Tonnage. 54.

## CHAPTER XVII.

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### LESSON 49.

#### *STATE PROHIBITIONS.*

##### **I. State Relations. 52, 54.**

**C**ONSTITUTION: "No State shall enter into any treaty, alliance, or confederation."

By the 54th paragraph of the Constitution, States are forbidden to enter into any agreement or compact with another State or with any foreign power.

The Constitution intends to confer the whole treaty-making power upon the general government. <sup>x</sup> It would not be safe to allow the States even to treat with each other. Were this permitted, two or more States might enter into a compact, not only quite adverse to the interests of neighboring States, but also to the interests of the Federal Union. <sup>x</sup>

Were the States at liberty to treat with foreign powers, or neighboring States, they might enter into such arrangements as would interfere with those made by the general government at home and abroad.

If the States were permitted to enter into treaties with foreign powers, the authority of the general government on the same matter would be at an end.

Foreign powers might secure an advantage over all the States by securing the favor of one State.

- II. Commercial. {
- 1. Coining Money. 52.
  - 2. Bills of Credit. 52.
  - 3. Tender. 52.
  - 4. Contract Obligations. 52.

By the 52d paragraph of the Constitution, States are prohibited from exercising any of the following commercial powers :

1. To coin money ;
2. To emit bills of credit ;
3. To make anything but gold and silver coin a tender in payment of debts.
4. To pass any law impairing the obligation of contracts.

1. **Coining Money.**—The power to coin money is confided to the general government. Were the States invested with it, the effect would be to multiply expensive mints, and diversify the forms and weights of the circulating coins. This would destroy all hope of uniformity of currency, and would seriously cripple and embarrass the interests of commerce.

2. **Bills of Credit.**—The bills of credit as here referred to, and which States are forbidden to emit, are engagements to pay money. At the close of the Revolutionary War, and for some years afterwards, the whole country was flooded with a nearly worthless paper currency. It was issued under the direction of Congress ; but it was expected that each State would redeem its proper proportion. But they did not do this, and it became utterly worthless as a medium of exchange. It is known in history as the “Continental currency.” It amounted in the aggregate to over three hundred and fifty millions.

The States themselves had also, on their own account, largely issued similar bills of credit. At last it was hardly worth a penny on a dollar.

This was the experience that led the authors of the Constitution to insert this clause.

3. Tender.—The States are also forbidden to pass any laws making anything but gold and silver coin a tender in payment of debts. This prohibition has the same general object in view as the preceding clauses. It is intended to give uniformity and stability to the currency of the country, and to establish confidence in commercial transactions.

Though the States can not make any thing but gold and silver a legal tender, this prohibition does not apply to the general government. A large part of the present paper currency is made legal tender by a law of Congress, passed early in 1862. But this is a national medium of exchange, and the law authorizing its issue has been declared by the Supreme Court of the United States to be constitutional.

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## QUESTIONS.

1. Where does the Constitution place the treaty-making power?
2. Why is it not safe to allow the States to treat with each other?
3. Why not with foreign powers?
4. What commercial powers are the States forbidden to exercise?
5. What if the States were allowed to coin money?
6. What are bills of credit?
7. What is said about paper money at the close of the Revolutionary War?
8. What was expected of the States?
9. What was the result of their not doing this?
10. What was the amount of Continental currency?
11. How far did it finally depreciate in value?
12. What are the restrictions on the States about money tender?
13. What is the object of this provision?
14. What is said about our present paper currency?
15. What decision has the Supreme Court given on this?



## LESSON 50.

*STATE PROHIBITIONS—Continued.*

## III. War. 52, 54.

By the 52d paragraph, States are forbidden to grant letters of marque and reprisal ; and by the 54th, they are forbidden to keep troops or ships-of-war, in time of peace, without the consent of Congress, or engage in war unless actually invaded or in such imminent danger as will not admit of delay.

These citations from the Constitution embrace all the restrictions imposed on the States in reference to making war. The power of making war, and of making treaties of peace, belongs exclusively to the general government.

A State may be so situated that it may become indispensable to possess military forces to resist an expected invasion or insurrection. The danger may be too imminent to admit of delay ; and, under such circumstances, a State would have a right to raise troops for its own safety, even without the consent of Congress.

IV. Penalties. { 1. **Bill of Attainder.** 52.  
 { 2. ***Ex-post-facto* Law.** 52.

By the 52d paragraph, States are forbidden to pass any bill of attainder or *ex-post-facto* law. These are explained in the chapter *Prohibitions on the United States*.

Bills of attainder and *ex-post-facto* laws are contrary to the first principles of the social compact, and of every principle of sound legislation. Congress is forbidden to pass them, as we have seen ; and for the same, if not for stronger reasons, the prohibition is extended to the States.

### V. Nobility. 52.

By the same paragraph, the States are forbidden to grant any title of nobility. We have seen in another place that the United States are under the same prohibition.

Besides the royal family in England, there are five orders of nobility:—Dukes, Marquises, Earls, Viscounts, and Barons. These are all included under the general term lords, or peers. These titles descend to the heirs.

It would be absurd to provide against the exercise of this power by the general government, and yet leave the States at liberty to exercise it.

### VI. Duties. { 1. Imports and Exports. 53. 2. Tonnage. 54.

1. Imports and Exports.—Constitution: “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.”

The restraint on the power of the States over imports and exports is enforced by all the arguments which prove the necessity of submitting the regulation of commerce to the Federal councils. Imposts and duties were explained in treating of the *Powers of Congress*.

Inspection-laws are not, strictly speaking, regulations of commerce. Their object is to improve the quality of articles produced by the labor of the country, and to fit them for exportation or for domestic use. These laws act upon the subject before it becomes an article of commerce.

2. Tonnage.—States are also forbidden to lay any duty of tonnage without the consent of Congress.

Tonnage-duty is a tax or duty laid on ships or vessels

in proportion to their cubical contents expressed in tons. A ton, expressed by measure, is forty-two cubic feet.

In reference to the subject of duties generally, it was the intention of the authors of the Constitution to place it entirely under the supervision and control of Congress.

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## QUESTIONS.

16. What are the restrictions on the States in the 52d, 53d, and 54th paragraphs?
17. To whom does the war and treaty-making power belong?
18. When may a State raise troops without the consent of Congress?
19. What is said of bills of attainder and *ex-post-facto* laws?
20. What is said about titles of nobility?
21. How many, and what, are the titles of nobility in England?
22. By what other general names are they known?
23. What are the restrictions on the States about imports and exports?
24. What is the object of inspection-laws?
25. What is said about the duty of tonnage?
26. What is a ton in measure?

# BLACKBOARD EXERCISE.

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## PERSONAL RIGHTS.

I. Domicile. { 1. In Peace. 88.  
2. In War. 88.

II. Searches and Seizures. 89.

III. Judicial. { 1. Indictment. 90.  
2. Second Trial. 90.  
3. Life, Liberty, and Property. 90.  
4. Private Property. 90.

IV. Criminal Actions. { 1. Accusation. 91.  
2. Jury Trial. 91.  
3. Witnesses. 90, 91.  
4. Counsel. 91.  
5. Bail. 93.  
6. Fines. 93.  
7. Punishments. 93.

V. Civil Actions. { 1. Jury Trial. 92.  
2. Second Trial. 92.

VI. Treason. { 1. What is. 72.  
2. Conviction for. 72.

## CHAPTER XVIII.

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### LESSON 51.

#### *PERSONAL RIGHTS.*

- I. Domicile. { 1. In Peace. 88.  
                  { 2. In War. 88.

**C**ONSTITUTION : “ 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.”

1. **In Peace.**—The place most sacred to every citizen is that one which he calls his home. The enjoyment of it, uninterrupted, is among the most sacred of personal rights. Arbitrary rulers, even in time of peace, are prone to trespass on this right, and in the very mode here forbidden.

A man’s house is his castle ; and in every land of law and order, it is the owner’s right that it should be protected.

2. **In War.**—But the necessities of war may sometimes require the sacrifice of private property, and individual rights, for the public good. In such cases, under our Constitution, just compensation must be made for the sacrifice of private property. In time of war it may become a public necessity, not only to quarter troops in private houses, but to convert churches, court-houses, and other public buildings, into barracks and hospitals.



But invasion of private property must, under our government, be strictly according to law. This would not be regarded as an encroachment, however, by any patriotic or reasonable man, but rather as cause for gratitude to his country.

## II. Searches and Seizures. 89.

Constitution : "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."

This provision requires no explanation. It is an affirmation of a well known principle of common law, recognized for ages. But it had been so frequently and so shamefully violated by despotic rulers for centuries, that our fathers thought it prudent to incorporate it among the earlier amendments to the Constitution.

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## QUESTIONS.

1. What does the Constitution say about quartering soldiers in private houses ?
2. What is said about home and arbitrary rulers ?
3. What do the necessities of war sometimes require ?
4. What is said about compensation for private property ?
5. What is said about unreasonable searches and seizures ?
6. What conditions are necessary to the issue of warrants ?
7. What is said of this provision ?

## LESSON 52.

*PERSONAL RIGHTS—Continued.*

- III. Judicial. {
- 1. Indictment. 90.
  - 2. Second Trial. 90.
  - 3. Life, Liberty, and Property. 90.
  - 4. Private Property. 90.

Constitution : “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 offense, 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.”

1. Indictment.—A capital crime is one that subjects the offender to the penalty of death.

An infamous crime is one that exposes the criminal to the abhorrence and detestation of mankind, and to ignominious punishment more or less severe.

An indictment is a written accusation or a formal charge made against a person for the commission of a crime, and is made by a grand jury on oath.

A grand jury generally consists of twenty-three men. It requires a majority to find an indictment. They sit under the direction of court with closed doors, and are sworn to secrecy in regard to their proceedings. The prosecuting attorney, being the law-officer for the State, draws up the indictment according to the forms of law. The foreman of the grand jury indorses on it the words, “*A true bill,*”

and signs his name under the indorsement. This must be done before the accused can be put on his trial.

\* Crimes committed in the army or navy, or in the militia, when in actual service in time of war or public danger, are tried by court-martial, or by military commission, without going through with the formalities of an indictment.

† 2. **Second Trial.**— Constitution: “Nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb.” This refers to second trials for the same crime.

By the authority of this clause, no person having been once tried for a crime, whether found guilty or not guilty, if the jury agree on a verdict at all, can be put on his trial a second time for the same offense. But this statement must be taken with the qualification that the accused does not himself apply for a new trial.

× 3. **Life, Liberty, and Property.**— Constitution: “Nor be deprived of life, liberty, or property, without due process of law.”

† The first object of human government is protection of the citizen. This clause is inserted for the purpose of giving assurance that life, liberty, and property shall be held sacred in the eye of the law, and that the citizen shall not be deprived of either except through all the forms and substance of the regular administration of justice.

† 4. **Private Property.**—On the other hand, the public good which is paramount to private interest, often requires the appropriation of private property for the ends of government, or for the greater good of the greater number. Where the public interests require it, private property may be taken by rendering a just compensation.

† What is just compensation in such cases is to be ascertained by such process of investigation as shall be fixed by

law. It may be necessary to project a railroad, a military road, or to construct a canal ; or it may become necessary to appropriate private property for the support of an army. This may be done by authority of law, but not without just compensation to the owner of the property.

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## QUESTIONS.

8. Will you recite the fifth Article of Amendments to the Constitution ?
9. What is a capital, and what an infamous crime ?
10. What is an indictment ?
11. What is a grand jury ?
12. What is said about their proceedings ?
13. What is said about the trial of crimes committed in the army, navy, and militia ?
14. What is said about second trials ?
15. What is the first object of government ?
16. Why is this clause in regard to life, liberty, etc., inserted in the Constitution ?
17. What does the public good often require ?
18. What is said about compensation for private property ?

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## LESSON 53.

### *PERSONAL RIGHTS—Continued.*

- |                              |   |   |
|------------------------------|---|---|
| <b>IV. Criminal Actions.</b> | } | <ol style="list-style-type: none"> <li><b>1. Accusation.</b> 91.</li> <li><b>2. Jury Trial.</b> 91.</li> <li><b>3. Witnesses.</b> 90, 91.</li> <li><b>4. Counsel.</b> 91.</li> <li><b>5. Bail.</b> 93.</li> <li><b>6. Fines.</b> 93.</li> <li><b>7. Punishments.</b> 93.</li> </ol> |
|------------------------------|---|---|

Constitution ; “ 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 defense."

We have here an outline of the rights of a party on trial for a criminal offense. In the first place, he is to be informed of the nature and cause of the accusation against him. This appears in the indictment, which is a written accusation made by the grand jury, on oath, at the suit of the government.

The indictment must charge the time, place, and nature and circumstances of the offense with clearness and certainty ; giving the accused full and definite notice of the charge, so that he may make his defense with all reasonable knowledge and to the best of his ability.

2. **Jury Trial.**—The trial is by jury. This is a *petit* jury, consisting of twelve good and lawful men, against whom, and each of whom, no valid and legal objection can be raised. This jury must be impartial ; that is, it must be constituted of persons who have not already made up their minds on the guilt or innocence of the party accused.

The jury shall be selected from the State and district in which the crime shall have been committed ; and the district shall have been previously ascertained, that is, determined by law. The selection of the jury from the State and district in which the crime is committed is supposed to secure fairness and impartiality on the trial.

3. **Witnesses.**—By our Constitution, a man can not be *compelled* to testify against himself ; and this is in affirmance of a well-settled principle of common law.

It is well known that in some countries not only are criminals compelled to give evidence against themselves,



but are subjected to the rack or torture in order to procure a confession of guilt; presuming that innocence would vindicate itself by a stout resistance, or that guilt would make open confession.

The accused has the right to compulsory process for obtaining witnesses in his favor. This is to secure impartiality of trial, and to give a fair opportunity of defense. This shall be done, if need be, at the expense of the government itself though carrying on the prosecution against him.

Not far back in English history, the prisoner at the bar was denied the privilege of calling witnesses to testify in his favor. But our Constitution makes wise provision against the possibility of such gross injustice.

4. Counsel.—The accused shall also have the assistance of counsel for his defense. This means that he shall have a lawyer to assist him at the bar, to guard his rights, to defend him, to see that he has a fair trial, and that no injustice is done him.

If he is unable to employ counsel of his own selection, it is the duty of the court to appoint one or more for that purpose at the expense of the government; so careful is the law in this country of the rights of every American citizen.

5. Bail.—Excessive bail shall not be required. Bail here means a bond of surety in a sum of money, signed by some responsible person or persons, promising that the accused shall appear and stand his trial in court when called for, or, if he does not, that the sum of money named in the bond shall be paid. On furnishing such a bond, the person is at liberty to go at large until the day of trial. If no such bond be furnished, the accused will be shut up in jail, that his body may be held securely till the time of trial.

Except in cases where the accused is charged with

crime punishable by death, and a few others, he has a right to be discharged from custody, on giving the bail required by the court.

This bail must not be excessive, but reasonable in amount. But for this humane provision in our Constitution, it might be required in a sum so large that a person of ordinary means would be unable to procure it. Should a magistrate, under our Constitution, see fit to be thus cruel, the prisoner can obtain relief under the forms of law.

6. **Fines.**—Excessive fines are forbidden. A fine is a pecuniary penalty imposed by a court upon a person for a criminal offense, or transgression of the law.

7. **Punishments.**—Nor shall cruel and unusual punishments be inflicted. This needs no comment, except the remark that history shows that despots in the dark ages taxed their fiendish ingenuity to invent punishments the most horrid, cruel, and revolting. And this prohibition is for the purpose of avoiding all possibility of a repetition of such cruelties in this country.

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## QUESTIONS.

19. Will you recite the sixth Article of Amendments?
20. Of what is this an outline?
21. What must the indictment charge?
22. What is a petit jury?
23. What is said about their being impartial?
24. Where is the jury to be selected?
25. What is required of witnesses in some countries?
26. To what has the accused a right?
27. What is the object of this?
28. Of what have prisoners in England been denied?
29. What is said about the assistance of counsel?
30. What is bail, and what is said about it?
31. In what cases may the prisoner give bail?
32. Why should not the bail be excessive?

33. What is said about fines ?  
 34. What is a fine ?  
 35. What is said about punishments ?  
 36. What is the object of this provision of the Constitution ?

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## LESSON 54.

### *PERSONAL RIGHTS—Continued.*

#### V. Civil Actions. { 1. Jury Trial. 92. { 2. Second Trial. 92.

Constitution : “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.”

1. Jury Trial.—Trial by jury has long been considered a sacred right even in civil controversies. In England this right was first recognized in the time of Alfred the Great, who established the proceeding in the ninth century. That noble ruler died in 901.

The above amendment to the Constitution was early adopted to allay the fears of some of its opposers, that that instrument substantially abolished the right of jury in civil cases. These fears were grounded in the fact that this right was expressly secured therein in criminal cases.

The language of the amendment applies only to cases in the common-law courts, not to courts of admiralty and maritime jurisdiction, nor to cases of equity, in which the courts determine both the law and the fact.

If the matter in controversy be less than twenty dollars, a jury trial can not be claimed, being a matter of too little importance to warrant the expense of a jury trial.

2. Second Trial.—When a matter in controversy has

once been judicially settled by a competent court, that adjudication is a bar to any further judicial examination or proceedings, except according to the forms and usages of the common law. There must be an end somewhere to human controversy, and that end must be determined by legal principles and usage.

The rules of common law here spoken of, under which matters of fact may be re-examined, refer to a continuation of the investigation by a successful motion for a new trial, on cause shown, or by writ of error, or by an appeal to another and higher tribunal. The parties have the right to exhaust all legal remedies before the controversy is to be considered as judicially settled ; but these remedies must be pursued according to common-law usage.

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## QUESTIONS.

37. What is the seventh Article of Amendments ?
38. How is trial by jury considered ?
39. By whom, and when, was jury trial established in England ?
40. Why was this amendment to our Constitution adopted ?
41. To what courts does it apply, and to what does it not ?
42. In what cases may jury trial be claimed ?
43. What is said about second trial ?
44. To what do the rules of common law refer ?

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## LESSON 55.

### *PERSONAL RIGHTS—Continued.*

#### VI. Treason. { 1. What is. 72.      •                           { 2. Conviction for. 72.

1. What is.—Constitution : “Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort.”

There are but two ways that treason can be committed against the United States, and these are defined with such precision as to leave no room for cavil or doubt. Levying war against the United States, or adhering to their enemies, giving them aid and comfort, is treason.

Very early in our history, the Supreme Court of the United States had occasion to define what is to be understood by the phrase, "levying war." On that occasion, the court said: However flagitious may be the crime of conspiring to subvert by force the government of our country, such conspiracy is not treason.

To conspire to levy war, and actually to levy war, are distinct offenses. The second (levying war) must be brought into open action by the assemblage of men for a purpose treasonable in itself, or the fact of levying war can not have been committed.

2. Conviction for.—Constitution: "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.

The Constitution is humane to the accused, in requiring the strictest proof for the establishment of his guilt. There must be two witnesses, at least, to the same overt act, unless the prisoner make confession in open court. Confessions out of court, though testified to by any number of witnesses, are not sufficient.

There must, as there should, be a concurrence of two witnesses to the same overt act, that is, *open* act of treason, who are above all reasonable exception.

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## QUESTIONS.

45. What is treason against the United States?
46. In how many ways can treason be committed?
47. What decision has the Supreme Court given on the subject of "levying war."
48. What is necessary for a conviction of treason?



# BLACKBOARD EXERCISE.

## EXECUTIVE.

I. In whom Vested. 55.

II. Executive Term. 55.

III. Eligibility. { 1. Citizenship. 59.  
2. Age. 59.  
3. Residence. 59.

IV. How Elected.

1. Electors. { 1. Appointment. 56  
2. Number. 56.  
3. Proceedings. { 1. Meeting. 57.  
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3. Making lists. 57.  
4. Signing and certifying lists. 57  
5. Transmitting lists. 57.  
6. Directing lists. 57.  
4. In Congress. { 1. Joint Meeting. 57.  
2. Opening Certificates. 57. } Result.  
3. Counting Votes. 57. }  
2. House of Representatives. { 1. Quorum. 57. } Result.  
2. Eligibility. 57. }  
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V. Oath of Office. 62.

VI. How Removable. 67.

VII. Salary. 61.

VIII. Powers and Duties.

1. Military. { 1. Army and Navy. 63.  
2. Militia. 63.  
2. Civil. { 1. Departments. 63.  
2. Reprieves and Pardons. 63.  
3. Treaties. 64.  
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## CHAPTER XIX.

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### LESSON 56.

#### *EXECUTIVE.*

##### I. In whom Vested. 55.

**C**ONSTITUTION: "The Executive power shall be vested in a President of the United States of America."

Under the Confederation, there was no such officer as a President of the United States. There was an Executive Committee of thirteen, one from each State, having no power except during the recess of Congress. Congress possessed the Executive power while in session.

Energy in the Executive is one indispensable characteristic in the definition of good government; for the duty of this department is to see that the laws are faithfully and promptly executed. A feeble Executive implies a feeble execution of the government. A feeble execution is but another phrase for a bad execution; and a government ill executed, whatever it may be in theory, must be a bad government in practice.

The Convention that formed the Constitution deliberated some time on the question whether to place the Executive power in the hands of *one*, or of several individuals. It was believed by all, that in the hands of one, the Executive power would be more prompt and energetic; and this view settled the question. It is supposed to give a stronger sense of personal responsibility.

## II. Executive Term. 55.

Constitution : “ He shall hold his office during the term of four years.”

In the Constitutional Convention, the period for which the Executive should be elected, was a subject on which there was much debate and difference of opinion.

The several periods of one, two, three, four, six, and ten years, each had its advocates—and some members were in favor of an Executive for life, or during good behavior. Four years, the term finally adopted, was the result of compromise.

The Executive term should not be so short as to give no opportunity to test the utility of its measures ; nor, on the other hand, should it be so long as to allow a corrupt and obstinate Executive to afflict the country with permanent mischief and disaster.

The Presidential term commences on the fourth day of March next after the President’s election ; and in case of his death, removal, or resignation, during his term, the person who succeeds to the duties of the office serves the unexpired portion of the term only.

President Grant, at his second inauguration, entered on the twenty-second Presidential term, since the adoption of our Constitution.

### III. Eligibility. {

- 1. Citizenship. 59.
- 2. Age. 59.
- 3. Residence. 59.

Constitution : “ 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.”

1. **Citizenship.**—The Constitution requires that the President shall be a natural-born citizen of the United States, or a citizen at the time of the adoption of the Constitution. This is a necessary restriction, when we consider the sacredness of the trust committed to the charge of the Executive.

Several of the sovereigns of Great Britain were persons of foreign birth. This qualification destroys any hopes that an intriguing foreigner might indulge of becoming the Chief Executive of our Republic.

But, throughout the bloody struggle of the American Revolution, our fathers were greatly assisted by the aid of many citizens who were natives of other countries. It would have been ungenerous and ungrateful to have excluded this class of citizens from all possibility of attaining to any office, however exalted, under a government which they had sacrificed so much to establish.

But the clause giving eligibility to a citizen at the time of the adoption of our Constitution, though of foreign birth, has become practically obsolete by the lapse of time.

The Executive is eligible to re-election without limitation. But thus far in our history no Executive has been elected to the office beyond the close of his second term.

2. **Age.**—The age required was regarded as necessary to give the candidate for this office sufficient time to demonstrate his character, and to enable his fellow-citizens to judge of his fitness for the high position of Chief Executive of a great nation. The mental faculties are usually in full vigor at this age; and opportunities must have been afforded for long public service, and for varied and large experience in the public councils.

3. **Residence.**—A residence of fourteen years within the United States is required. It might be presumed that long and continued residence abroad would create not

only indifference for the country of one's birth, but a partiality for the institutions of other countries with which he has long been familiar.

This long residence in the United States is intended not only to give opportunity for an extensive acquaintance on the part of his fellow-citizens with the candidate for this office, but also to furnish *him* with the requisite knowledge of the wants and institutions of the country.

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## QUESTIONS.

1. In whom is the Executive power vested?
2. In whom was it vested under the Confederation?
3. What does a feeble Executive imply?
4. What does that imply?
5. Give the views of the Convention on the unity of the Executive?
6. How long is the Executive term?
7. What variety of opinion was there on the Executive term?
8. When does the term commence?
9. What is the number of the present Executive term?
10. What are the conditions of eligibility?
11. Who might be President though foreign born?
12. Why is the age named necessary?
13. Why is so long a residence required?



## LESSON 57.

*EXECUTIVE—Continued.*

<b>IV. How Elected.</b>	}	<b>1. Electors.</b>	1. Appointment. 56.		
			2. Number. 56.		
			3. Proceedings.	1. Meeting. 57.	
				2. Voting. 57.	
				3. Making lists. 57.	
				4. Signing and certifying lists. 57.	
		5. Transmitting lists. 57.			
		6. Directing lists. 57.			
		4. In Congress.	1. Joint Meeting. 57.	} <i>Result.</i>	
			2. Opening Certificates. 57.		
			3. Counting Votes. 57.		
		<b>2. House of Representatives.</b>		1. Quorum. 57.	} <i>Result.</i>
				2. Eligibility. 57.	
				3. Voting. 57.	

There are but two ways of electing a chief magistrate of the United States. The first method is by Electors appointed for that purpose ; and if this method fails, the election devolves on the House of Representatives. We will consider the two methods.

1. **Electors.**—In the Convention that formed the Constitution, there were three methods proposed for electing a President :—The first plan was, by the two Houses of Congress on joint ballot. The second was by Electors to be appointed by the several State Legislatures. The third was, and this prevails, to elect by Electors appointed in such manner as the several State Legislatures might direct. The Constitution gives Congress the power to determine the time of choosing the Electors. Congress has fixed by law that Electors shall be chosen throughout the United States, on the first Tuesday after the first Monday in the month of November of the year of the Presidential election.

1. *Appointment of Electors.*—With a single exception the Electors in the several States are elected by the people

the same as Representatives in Congress. No Senator, Representative, or other person holding a place of trust or profit under the United States, can be an Elector of President and Vice-President. Thus the sense of the people more distinctly prevails than it would were the choice of President confided to persons holding other official positions.

2. *Number of Electors.*—The number of Electors corresponds with the number of Senators and Representatives to which the States are respectively entitled in Congress. Thus each State has about the same influence in the election of President and Vice-President that it has in the national councils.

3. *Proceedings.*—There are certain steps to be taken by the Electors after their appointment, which are definitely specified by the Constitution.

1st. MEETING.—The first step to be taken by the Electors after their appointment is, to meet in their respective States. By a law of Congress, the State Legislature is authorized to direct as to the place of meeting. This place is generally, perhaps in all cases, the capital of the State. The meeting of the Electors, by law of Congress, takes place on the first Wednesday of December next after they are chosen. All the electors meet on the same day.

The meeting is a mere matter of form. They are expected to cast their votes for the candidates of the political parties according to previous pledges. No discussion of the merits of the candidates takes place. The Electors are chosen wholly with refence to particular persons who have been put in nomination at a convention called for that purpose. This, however, is a gross perversion of the intention of the authors of the Constitution. It is the result of modern political party management.

2d. VOTING.—The votes must be given by ballot for President and Vice-President, one of whom, at least, shall

not be an inhabitant of the same State with themselves. According to this provision, a State would lose its vote if given for candidates, both of whom were citizens thereof. They shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President.

3d. MAKING LISTS.—The Electors are required, by the Constitution, to 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.

4th. SIGNING AND CERTIFYING LISTS.—These lists are to be signed and certified by the Electors.

5th. TRANSMITTING LISTS.—These lists are to be transmitted to the seat of the government of the United States.

6th. DIRECTING LISTS.—These certificates are to be directed to the President of the Senate.

By law of Congress, the Electors are to make and sign three certificates of all the votes given. They are to seal up these certificates and to certify on each that a list of the votes of their States respectively for President and Vice-President is contained therein.

They shall appoint a person to take charge of and deliver one of these certificates to the President of the Senate at the seat of government before the first Wednesday of January then next ensuing.

Another of the certificates is to be forwarded forthwith by mail to the President of the Senate at the seat of government.

The third certificate is to be delivered to the judge of the district court in which the Electors assemble.

4. *In Congress*.—It will be observed that the certificates are now in the hands of the President of the Senate, and the steps are to be taken for canvassing the votes.

1st. JOINT MEETING.—A joint meeting of the two Houses of Congress is then called ; and this takes placé,

by law of Congress, the second Wednesday of February following the reception of the certificates. The meeting is in the Hall of Representatives.

2d. OPENING CERTIFICATES. — “The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates.”

3d. COUNTING VOTES. — “The votes shall then be counted.” The counting of the votes is done by tellers appointed for that purpose by the House and the Senate.

These proceedings insure dignity, fairness, and impartiality in this important business.

*Result.*—Constitution : “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.”

But if no candidate shall receive a majority of the Electors appointed, the people have failed to elect a President ; and then, by the Constitution, the election of that officer devolves upon the House of Representatives.

This occurred in the year 1825, and may occur at any election when there are three or more candidates running for the office.

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## Q U E S T I O N S .

14. How many methods of electing a President, and what are they ?
15. How many, and what plans were proposed ?
16. How are Electors appointed ?
17. Who may not be appointed Electors ?
18. Why is this ?
19. How many Electors for each State ?
20. What are the various steps required to be taken by the Electors ?
21. What restrictions on the voting ?
22. How must the lists be transmitted ?
23. What are the steps to be taken for canvassing the votes in Congress ?
24. What is the result ?

## LESSON 58.

*EXECUTIVE—Continued.***IV. How Elected—Continued.**

2. **House of Representatives.**—When the people fail to elect the Chief Executive, it seems proper to refer the matter for decision to the House of Representatives. This seems to be the most appropriate body, as the members of which it is constituted are chosen by the popular voice, and are the more immediate representatives of the people.

1. *Quorum.*—Constitution: “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.”

A majority can transact the ordinary business of legislation; but the election of a chief magistrate of the nation was regarded by the authors of the Constitution as a matter of such grave interest to the country, that they inserted this provision with unanimity.

2. *Eligibility.*—When the election takes place in the House, the selection must be made from the persons already voted for by electoral vote. The House is not at liberty to take up a new candidate, but their selection must be confined to those receiving the highest numbers, not exceeding three, on the list of persons voted for as President. This provision is made for the purpose of excluding from the list all such persons as receive but a small number of the electoral votes.

3. *Voting.*—In choosing the President by the House of Representatives, the Constitution requires that the votes shall be taken by States, the representation from each State having one vote. There is a greater chance of an



election, when there are three or more candidates, in this mode, than there would be by a mere representative vote according to numbers, as the same divisions would probably exist in the popular branch as in their respective States.

The vote must be taken by ballot.

As a majority of all the States is necessary to a choice it might so happen that the House of Representatives would be unable to elect a President. For instance, were there three candidates before the House, one might receive the votes of fourteen States, and the other two the votes of twelve States each. In which case there would be no choice, as neither would have a majority of all the States. The House might continue to vote with the same, or nearly the same, result until the fourth day of the next March. At which time the House would lose jurisdiction of the subject, and could vote no longer.

The Constitution makes provision for precisely this condition of things. The following would be the

*Result*:—Constitution: “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.”

It will be seen, in considering the election of the Vice-President, that no possible contingency can arise to prevent the election of that officer.

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## QUESTIONS.

25. What if no candidate is elected by this process?
26. What is a quorum for election in the House?
27. Why are so many required for a quorum?
28. To whom is the election in the House confined?
29. Why is this so?

30. How are the votes taken?
31. How many votes are necessary to a choice?
32. How long may the House continue to vote if they do not succeed in electing a President?
33. What if the House finally fail to elect?

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## LESSON 59.

### *EXECUTIVE—Continued.*

#### V. Oath of Office. 62.

Before the President enters on the execution of his office he is required to solemnly swear, or affirm, that he will faithfully execute the duties thereof, and, to the best of his ability, preserve, protect, and defend the Constitution of the United States.

Mr. Justice Story says : This is a suitable pledge of his fidelity and responsibility to his country, and creates upon his conscience a deep sense of duty, by an appeal at once, in the presence of God and man, to the most sacred and solemn sanctions which can operate upon the human mind.

#### VI. How Removable. 67.

Constitution : “The President and 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.”

This subject has been noticed in treating of the Senate of the United States. (See the author’s larger work, “Analysis of Civil Government.”)

#### VII. Salary. 61.

Constitution : “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.”

Without this clause, the Executive would be dependent for his support on the will of Congress. By securing their favor, his salary might be greatly enlarged ; and, by incurring their displeasure, it might be greatly diminished. His salary can not be changed during his term of office.

From the beginning of the Executive office under our government to the close of President Grant’s first term, 1873, the salary was twenty-five thousand dollars a year. From the commencement of his second term, March 4, 1873, it has been fifty thousand, and will probably permanently remain at that sum. In addition to his salary, which is fixed by law of Congress, he has the use of the White House, as the Presidential mansion is called. It is also furnished for him and taken care of, the grounds cultivated, his fuel and light provided, and many other things at the expense of the public treasury.

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## QUESTIONS.

34. What is the President’s oath of office ?
35. What does Judge Story say about this oath ?
36. How is the President removable ?
37. What is the constitutional provision about his salary ?
38. What is the advantage of this provision ?
39. What was the salary until President Grant’s second term, and what is it now ?
40. What is furnished him besides his money salary ?

## LESSON 60.

*EXECUTIVE—Continued.*

<b>VIII. Powers and Duties.</b>	1. <b>Military.</b>	1. Army and Navy. 63.								
		2. Militia. 63.								
	2. <b>Civil.</b>	1. Departments. 63.								
		2. Reprieves and Pardons. 63.								
		3. Treaties. 64.								
		4. Appointments.	<table> <tr> <td style="padding-right: 5px;">1. General.</td> <td style="padding-left: 5px;"> <table> <tr> <td style="padding-right: 5px;">1. <i>D'ip'omatic.</i></td> </tr> <tr> <td style="padding-right: 5px;">2. <i>Judic'al.</i></td> </tr> <tr> <td style="padding-right: 5px;">3. <i>Others.</i></td> </tr> </table> </td> </tr> <tr> <td style="padding-right: 5px;">2. Special.</td> <td style="padding-left: 5px;">65.</td> </tr> </table>	1. General.	<table> <tr> <td style="padding-right: 5px;">1. <i>D'ip'omatic.</i></td> </tr> <tr> <td style="padding-right: 5px;">2. <i>Judic'al.</i></td> </tr> <tr> <td style="padding-right: 5px;">3. <i>Others.</i></td> </tr> </table>	1. <i>D'ip'omatic.</i>	2. <i>Judic'al.</i>	3. <i>Others.</i>	2. Special.	65.
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6. Congress.	<table> <tr> <td style="padding-right: 5px;">1. Convocation.</td> <td style="padding-left: 5px;">66.</td> </tr> <tr> <td style="padding-right: 5px;">2. Adjournment.</td> <td style="padding-left: 5px;">66.</td> </tr> <tr> <td style="padding-right: 5px;">3. Veto.</td> <td style="padding-left: 5px;">24, 25.</td> </tr> </table>	1. Convocation.	66.	2. Adjournment.	66.	3. Veto.	24, 25.			
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3. Veto.	24, 25.									
7. Reception. 66.										
8. Executor of the Laws. 66.										
9. Commissions. 66.										

1. **Military.**—Constitution: "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."

It is not to be inferred from this clause of the Constitution that the President is actually to take command in person in case of war. This is not the intention; though he has the power were he so disposed. It might be proper that the President should actually place himself at the head of an army in the field, were he known to be an experienced and skillful military commander.

He is the head of the army in the same sense that he is the head of the nation. He may control its general operations and movements. He directs the application of the military force in the execution of the laws, in maintaining peace at home, and in resisting foreign aggression. These duties are of an executive character, and are properly vested in the President, that unity of plan, promptitude, activity, and decision, may be secured.

For the same reasons, the Executive is made commander-in-chief of the militia of the several States when called into the actual service of the United States. In order that there may be unity of action, uniformity of training and discipline, and concert of purpose, it is necessary that regulars and militia should be subordinate to a single head.

2. *Civil.*—1. *Departments.*—Constitution: “He may require the opinion in writing of the principal officer in each of the executive departments on any subject relating to the duties of their respective offices.”

2. *Reprieves and Pardons.*—Constitution: “He shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.”

A reprieve is the temporary suspension of the execution of sentence, especially the sentence of death. A pardon is the remission of a penalty, and a release of the offender from punishment. Reprieves may become necessary or expedient on account of doubts of guilt, arising from the discovery of new testimony after sentence, and before execution; or considerations of public policy may require a like interference. The same reasons might justify the grant of a full pardon.

Discretionary power over such cases should be vested somewhere, “as the law can not be framed on principles of compassion.” The chief executive magistrate should be allowed to hold a court of equity in his own breast, to soften the rigor of the general law in such criminal cases as may merit an exemption from punishment, or as may properly plead for temporary delay of execution of sentence.

There is no power under our government to extend pardon to a person convicted on impeachment.

3. *Treaties.*—Constitution: “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.”

The definition of treaty will be found in the chapter on the Senate of the United States.”

In forming treaties, the entire plan, with all its conditions and stipulations, is settled through the President on the part of the United States. He acts through the agency of ambassadors and foreign ministers duly accredited by our government.

The entire proposed treaty is submitted to the Senate by the President. The Senate discusses it in secret session. No treaty can be complete, on the part of our government, until ratified by the Senate.

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## QUESTIONS.

41. What is his military position?
42. In what sense is he the head of the army?
43. What may he require of department officers?
44. What power has he over reprieves and pardons?
45. What are they?
46. When may they become necessary?
47. What is said of pardon in cases of impeachment?
48. What power has he over treaties?
49. What is a treaty?
50. Who settles the plan of treaties on the part of government?
51. Through whom does he act?
52. What is necessary to the completion of a treaty?

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## LESSON 61.

### *EXECUTIVE—Continued.*

#### VIII. Powers and Duties—*Continued.*

4. *Appointments.*—Constitution: “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."

When nominations are made by the President, they are presented to the Senate in writing; and this body acts upon them in secret session, and under the injunction that discussions on their merits or the qualifications of the nominees shall be *kept* secret. A majority of the Senate decides the question of confirmation or rejection of the candidate nominated.

If the nominee is confirmed, or the nomination ratified, the President issues a commission accordingly, unless, in the mean time, he has concluded to decline it, which he is at liberty to do; in which case, he may make another nomination.

1st. GENERAL.—An *Ambassador* is a minister of the highest rank, employed by government to represent it, and to manage its interests, at the court or seat of government of some other power.

The word *Minister*, as used in the Constitution, has nearly the same signification as Ambassador, especially Minister Plenipotentiary.

A *Consul* is a person commissioned to reside in a foreign country, as an agent or representative of a government, to protect the rights, commerce, merchants, and seamen of the State, and to aid in any commercial, and sometimes in diplomatic transactions, with such foreign country.

The *Judges* of the *Federal Courts* are the judicial officers, and are the only ones under our government whose appointments are for life, or during good behavior.

The *other officers* include the heads of the several executive departments, and constitute what is called the President's Cabinet. They are the Secretary of State,

Secretary of the Treasury, Secretary of War, Secretary of the Navy, Secretary of the Interior, Postmaster-General, and Attorney-General. They also include military officers.

2. SPECIAL.—He is also authorized by the following clause of the Constitution to make special appointments to fill vacancies :

“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.”

The power of the President to revoke any appointments made on his nomination and confirmed by the Senate, is denied by law of Congress ; though he has the power of suspension for a limited period. (See the author’s Analysis of Civil Government, on this subject.)

5. *Messages*.—Constitution : “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.”

Under this clause the practice originated, and has continued, of delivering formal messages, annual and special, to Congress. The President has means of information on all subjects, foreign and domestic, far superior to those belonging to any other branch of the government.

On account of his intimacy with the heads of departments, he may be presumed to be in possession of valuable information regarding the workings of the laws, the systems of trade, finance, and the operations of the judiciary, military, naval, and civil establishments of the Union. He is, therefore, qualified to communicate information on these subjects in the most practical form, and to recommend such measures as may be necessary for the correction of any defects which may have become apparent.

## QUESTIONS.

53. What control has he over appointments?
  54. How does he present his nominations to the Senate?
  55. How does the Senate act upon them?
  56. What is an Ambassador?
  57. What is a Minister?
  58. What is a Consul?
  59. What is said of Judges of the Supreme Court?
  60. What are the other officers whom the President may nominate and appoint?
  61. When may the President fill vacancies?
  62. What is the constitutional provision about messages?
  63. What practice has grown out of this provision?
  64. What are the President's means of information on the state of the Union?
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## LESSON 62.

*EXECUTIVE—Continued.***VIII. Powers and Duties—Continued.**

6. *Congress.*—Constitution: "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."

1st. **CONVOCATION.**—Events may occur, entirely unforeseen by the Congress at its last session, imperiling the interests of the country, and requiring the immediate convocation of that body. An event of this kind transpired in the month of April, 1861, from the date of which, hostilities became general between the North and the South. President Lincoln summoned Congress to meet the fourth day of the following July.

The power to call a meeting of Congress must be vested

*somewhere*; and that it should be committed to the discretion of the Executive, all agree.

2d. ADJOURNMENT.—It might be barely possible that Congress should fail to agree on the time of adjournment; and, should such an exigency arise, the Executive seems the most suitable third party to interfere for the peaceable termination of the controversy. In England, the sovereign convenes and prorogues the Parliament.

3d. VETO.—When a bill passes both Houses of Congress it is presented to the Executive for his signature. Should he approve it, he signs it; but if not, he returns it, with his objections, to the House in which it originated. These objections are called the President's veto.

But his veto is not absolute,—only qualified. For, if it shall be repassed by a vote of two-thirds of each House, it becomes a law notwithstanding the President's objections. (See paragraphs of the Constitution, 24 and 25.)

7. *Reception*.—Constitution: "He shall receive ambassadors and other public ministers."

The reception of ambassadors and other public ministers is a recognition of the national character and standing of the countries which they represent. Their reception may, therefore, become a very nice and delicate question with the Executive.

The Executive is not obliged to receive an ambassador or public minister, even though he comes clothed with proper authority from a nation with whom we are at peace, and which is recognized among the great family of nations.

Although it requires the assent of the Senate, when that body is in session, to send an American minister to a foreign court, it does not require their assent to receive foreign ministers at our own capital. In such cases the President is the sole organ of recognition. (See author's *Analysis of Civil Government*.)



8. *Executor of the Laws.*—Constitution : “ He shall take care that the laws be faithfully executed.”

This clause makes it the duty of the President faithfully to execute the laws of Congress. When a law has been passed by all the forms of legislation, he has no discretion. He must not only render obedience to the law himself, but must enforce its execution on all others. Were he to refuse, he would be guilty of a high misdemeanor, and might be removed from office by impeachment, and otherwise punished according to law.

He has ample power to execute the laws, as, for this purpose, the whole military force of the country is at his command, and under his control.

9. *Commissions.*—Constitution : “ He shall commission all officers of the United States.”

A commission is a formal certificate of appointment issued by the proper authority. In this case, it is signed by the President of the United States, and sealed by the Secretary of State with the great seal of the United States. The commission recites the powers conferred, with definite certainty ; and it is usually delivered to the person whose appointment is made by it, though delivery is not necessary to the validity of the appointment.

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## QUESTIONS.

65. What does the Constitution say about his adjourning and convening Congress ?
66. Why should this power be vested in the President ?
67. What is said of his veto power ?
68. What is said about the reception of foreign ministers ?
69. Why should this duty be assigned to the President ?
70. What if the President should decline to execute the laws ?
71. What power has he to execute them ?
72. What is a commission ?
73. Who commissions the officers of the United States ?



## CHAPTER XX.

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### LESSON 63.

#### *VICE-PRESIDENT.*

##### **I. Eligibility. 57.**

**C**ONSTITUTION : "No person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States."

If the Executive office becomes vacant, the Vice-President performs the duties thereof. He should, therefore, have the same qualifications as President. These are, that he must be a natural-born citizen, or a citizen of the United States at the adoption of the Constitution ; that he must be thirty-five years of age ; and, that he must have been fourteen years a resident within the United States.

Three times in our history has a Vice-President been called to serve out an unexpired term of the Presidential office. William Henry Harrison, President, died April 4, 1841. John Tyler, then Vice-President, succeeded to the duties of the Executive office. Zachary Taylor, President, died July 9, 1850. He was succeeded by Millard Fillmore, then Vice-President. Abraham Lincoln died April 15, 1865, having been assassinated. He was succeeded by the Vice-President, Andrew Johnson. President James A. Garfield died Sept. 19, 1881 ; and Vice-President Chester A. Arthur took the oath of office as President on the following day.

II. Election. { 1. In Congress. 57.  
2. In Senate. 57.

Constitution : "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."

1. In Congress.—The first part of this constitutional clause refers to the counting of votes and other proceedings in Congress. If no person receives a majority of the Electoral votes as Vice-President, of course the people have failed to elect that officer. The election must now go to the Senate of the United States.

2. In Senate.—As just stated, if no person receives a majority of the Electoral votes, the Senate is to choose the Vice-President from the two highest numbers on the list as candidates for that office. This renders it scarcely possible that the Senate should fail to elect that officer.

As the Vice-President is the President of the Senate, it seems proper that the Senate should elect this officer in case of failure to elect by the Electors.

The Senate has chosen but one Vice-President in our history. This was Richard M. Johnson, in 1837.

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## QUESTIONS.

1. To what office must the Vice-President be eligible ?
2. Why should this be so ?
3. What are the three conditions of eligibility ?
4. How many times, and in what instances, has the Vice-President been called to the Presidential office ?

5. In what two ways may the Vice-President be elected?
6. To what number is the Senate confined in the choice of this officer?
7. Why is it proper that the Senate should elect this officer?
8. What Vice-President was elected by the Senate?

## LESSON 64.

### *VICE-PRESIDENT—Continued.*

#### III. Oath of Office. 84.

The Vice-President is among the officers required to take the oath or affirmation, before entering on the duties of his office, to support the Constitution of the United States.

#### IV. Term. 55.

The official term is four years. The same reasons that governed in fixing the Presidential term at four years apply with equal force to the term of the Vice-President.

**V. Powers and Duties.** { 1. **President of the Senate.** 11.  
 { 2. **Acting President of U. S.** 60, 57.

1. **President of the Senate.**—Constitution: “The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.”

The duties of the Vice-President as President of the Senate are such as usually devolve on the presiding officer of legislative bodies. He is to preside over the deliberations of the Senate, enforce the rules of order, maintain due decorum among the members, and decide all questions of parliamentary practice.

The Speaker of the House of Representatives has the appointment of standing committees; but the President



of the Senate does not, as he is not a member of that body.

He submits all questions, duly made, to the Senate, puts to vote all questions brought forward for discussion and decision, and makes known the result.

2. Acting President of United States.—Constitution: "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."

He is also to act as President, if the House of Representatives shall fail to elect that officer when the right of choice shall devolve on them.

When the Vice-President acts as President, which has been the case several times in our history, he has uniformly been recognized as *President*, by both Houses of Congress. (See Analysis of Civil Government, by the author.)

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## QUESTIONS.

9. What is the nature of his oath of office?
10. How long is the term of the Vice-President, and why?
11. What are the powers and duties of the Vice-President?
12. Wherein do his duties differ from those of the Speaker of the House?
13. In what cases do the duties of the Executive devolve on the Vice-President?
14. In such cases, what is his title of office?

# BLACKBOARD EXERCISE

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## JUDICIAL.

**I. Where Vested.** { 1. Supreme Court. 68.  
2. Inferior Courts. 68.

**II. Judges.** { 1. How Appointed. { 1. President and  
2. Senate. 64.  
2. Oath of Office. 84.  
3. Tenure of Office. 68.  
4. How Removable. 67.  
5. Salary. 68.

**III. Jurisdiction.** { 1. Limitation. 69.  
2. Original. 70.  
3. Appellate. 70.

## CHAPTER XXI.

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### LESSON 65.

#### *JUDICIARY.*

##### **Necessity of a National Judiciary.**

TO establish justice was one of the principal objects, as expressed in the Preamble, to be secured by the adoption of the present Constitution of the United States. Hence it was necessary to create a national judiciary. A government having no judiciary that commands the respect of the people is wanting in one of the essential elements of stability.

There was no national judiciary under the Confederation ; and, of course, there were no national courts. The only courts were State tribunals. The State Legislatures often passed laws favoring their own respective localities, and State courts were too ready to disregard the decisions of co-ordinate tribunals of neighboring States.

Treaties formed between the Confederation and foreign nations were recklessly disregarded by the State Legislatures as well as by the State courts. In several instances, this open disregard of the plighted faith of the nation threatened to involve the whole country in war.

Laws were passed by the State Legislatures, in many instances, in open defiance of the sacredness of private

contracts between man and man. Remedies for the recovery of debts were suspended. Debtors were authorized to tender any sort of property, even though nearly worthless, in payment of debts that had been contracted to be paid in money.

Insolvent laws were enacted by some of the States, the effect of which, when applied to the relations of debtor and creditor, practically amounted to a complete discharge of indebtedness without consideration.

Laws were also passed making the most unjust and invidious distinctions in favor of the citizens of the States enacting them, and against foreigners and citizens of neighboring States. In fact, the American judiciary became a matter of contempt at home, and of burlesque abroad.

There were other evils that called loudly for remedy. Some related to the welfare of our foreign commerce; some to the conflict of interests between citizens of different States; some to the relief of foreigners who had given credit to our citizens; others related to territorial disputes between different States; and still others, to titles of lands under grants from different States.

So loose and reckless had the legislative and judicial administration of affairs become, that it was conceded by all parties, that, unless some effectual remedy were applied, our political institutions must crumble into ruins.

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## QUESTIONS.

1. What was one of the objects of the Constitution?
2. What necessity did this create?
3. What is said of a government having a feeble judiciary?
4. What kind of courts were under the Confederation?
5. What did the State Legislatures and State courts do?
6. What was the result?

7. What danger appeared ?
8. What kind of State laws were passed ?
9. How did these affect creditors ?
10. What distinctions were made in some of the State laws ?
11. What other evils existed, arising from a defective judiciary ?
12. What was the opinion of all political parties of that day ?

## LESSON 66.

### JUDICIAL.

#### I. Where Vested. } 1. Supreme Court. 68. 2. Inferior Courts. 68.

Constitution: "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."

1. **Supreme Court.**—The Supreme Court is a part, and only a part, of the national judiciary. It is established by the Constitution, but organized by Congress.

The Judges of the Supreme Court at present are one Chief Justice, and eight associate Justices, any six of whom constitute a quorum.

Ever since this court was organized, September, 1789, it has had a chief justice. But the number of *associate* justices has been varied several times by acts of Congress. At first the number was fixed at *five*—March 3d, 1837, at *eight*—March 3d, 1863, at *nine*—April 10th, 1869, at *eight*, the present number.

This court holds one term a year in the city of Washington, beginning the first Monday of December.

2. **Inferior Courts.**—The establishment of inferior tribunals would seem to result necessarily from the establishment of a Supreme Court. Recourse could not be had



to the Supreme Court in all cases which might properly be subjects of Federal adjudication.

It would be out of the power of any single court to dispose of the immense amount of business that would be sure to demand their attention. Without inferior tribunals easy of access, the sanctuary of justice would be closed to the great majority of American citizens.

Under the authority to establish inferior tribunals, each State or district can have a Federal court or courts of its own, competent to the adjudication of all matters of Federal jurisdiction within its limits.

The United States are divided, for judicial purposes, into nine circuits, and these circuits into districts. Each judge of the Supreme Court is allotted to a circuit, and is required to attend at least one term of the circuit allotted to him once in every two years.

A local circuit judge is also appointed for every circuit. Two sessions are held annually in most of the circuits. The circuit and district courts aforesaid, and the supreme court in the District of Columbia, which has a chief justice and three associate justices, are, in the constitutional sense, inferior courts.

Thus there are four classes of Federal courts :—

1. The Supreme Court of the United States, established by the Constitution, but organized by Congress.
2. The circuit courts of the United States, established and organized by Congress.
3. The district courts of the United States, established and organized by Congress.
4. The supreme court of the District of Columbia, also established and organized by Congress.

## QUESTIONS.

1. Where is the judicial power vested?
2. What is the Supreme Court?
3. How established and organized?
4. How many Judges of the Supreme Court?
5. When, and what, have been the changes as to justices?
6. When, and where, does the court hold its term?
7. What is the necessity of inferior courts?
8. How is the United States divided for judicial purposes?
9. Who presides over circuit courts?
10. What are the inferior courts?
11. What court in the District of Columbia, and what judges thereof?
12. How many, and what, classes of Federal courts?

## LESSON 67.

*JUDICIAL—Continued.*

- |                    |   |   |
|--------------------|---|---|
| <b>II. Judges.</b> | { | <b>1. How Appointed.</b> { 1. President and |
|                    |   | 2. Senate. 64.                              |
|                    |   | <b>2. Oath of Office.</b> 84.               |
|                    |   | <b>3. Tenure of Office.</b> 68.             |
|                    |   | <b>4. How Removable.</b> 67.                |
|                    |   | <b>5. Salary.</b> 68.                       |

1. **How Appointed.**—The mode of appointing the Judges has been noticed in treating of the Executive powers. The power is expressly given to the President in the Constitution, by and with the advice and consent of the Senate, to appoint the Judges of the Supreme Court; but nothing is said therein about the method of appointing the judges of the inferior courts. There is no question, however, with regard to the judges of the circuit courts; for they are Judges of the Supreme Court also.

But whether the judges of the district courts, and the supreme court of the District of Columbia, are inferior

officers in the constitutional sense, so that Congress may provide for their appointment, has never been settled by adjudication. But, thus far, the uniform practice has been to regard them *not* as inferior officers; but their appointments have been made by the President, with the concurrence of the Senate, the same as Judges of the Supreme Court.

2. Oath of Office.—The oath of office of all Federal judicial officers is the same as that of officers of the other departments of government; that is, that they will support the Constitution of the United States, and, to the best of their ability, perform the duties of their respective offices.

3. Tenure of Office.—For reasons well known to the experienced lawyer and jurist, the tenure of office of the judges should be made permanent and secure, depending only on their good behavior.

When the Constitution was before the people for their consideration one of the most gifted statesmen of that day gave his views on this subject in the following language:

1st. That they may be independent and fearless in the discharge of their responsible duties, it is necessary that they should hold by the will of no man, or set of men. They must feel dependent on no earthly power for their continuance in office. After appointment, were they in any manner dependent on Executive, legislative, or popular favor, the scales of justice might be doubtfully balanced, and confidence in the judiciary would be seriously disturbed.

2d. This independence could hardly be expected from judges who hold their offices by a temporary tenure. Periodical appointments, however regulated, or by whomsoever made, would be fatal to their necessary independence.

3d. If the power of making them were committed either

to the Executive or Legislature, there would be danger of an improper complaisance to the branch which possessed it ; if to both, there would be an unwillingness to hazard the displeasure of either ; if to the people, there would be too great a disposition to consult popularity, to justify a reliance that nothing would be consulted but the Constitution and the laws.

4. **How Removable.**—The subject of removal of Federal officers by impeachment has been fully considered in other places in this work. The Judges of the Supreme and inferior courts are subject to removal for impeachable offenses.

5. **Salary.**—Provision is wisely made, that, as the judge's salary is at the time he enters on the duties of his office, so it shall continue to be throughout his official existence, unless Congress shall see fit to increase it. In other words, it can not be diminished. To allow the legislative authority to diminish the salaries of the judges would be to give that authority control over their support; and to control their support is to control their will.

The salary of the Chief Justice is ten thousand five hundred dollars a year ; that of the associate justices ten thousand dollars each.

The constitutional provision in reference to this subject is as follows :

“The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior ; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.”

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## QUESTIONS.

13. By whom are the Judges of the Supreme Court appointed ?
14. By whom are the Judges of the other courts appointed ?

15. What is their oath of office?
16. What is their tenure of office?
17. What reasons are given by an eminent statesman for this?
18. How are the Judges removable?
19. What is said about the salaries of the Judges?
20. What is the amount of each?

## LESSON 68.

### *JUDICIAL—Continued.*

#### III. Jurisdiction. { - 1. Limitation. 69. - 2. Original. 70. - 3. Appellate. 70.

1. **Limitation.**—Constitution: “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.”

This clause defines the entire jurisdiction of the judiciary of the United States, so far as it relates to subject-matter. By judicial power, as here used, we are to understand the power of the national courts in the administration of justice. The word power refers to jurisdiction, or the authority of the court.

The subject-matter of a cause in court is the thing or question to be decided: the parties are the persons or corporations legally interested in the decision of the court on the subject-matter.

“The word law is generally understood, as defined by law-writers, to be the supreme power of the State, through its Legislatures, commanding what is right, and prohibiting what is wrong.

“The word equity, as applied to judicial proceedings, does not mean contrary to law; but it reaches cases to which the law can not be applied by reason of its universality.



“The object of equity jurisprudence is to supply the deficiencies of the courts of law, and to render the administration of justice more complete, by affording relief where the courts of law, in consequence of imperfections of their machinery, or of their too rigid adherence to peculiar forms, are incompetent to give it, or to give it with effect.”

Jurisdiction is of two kinds, original and appellate.

Original jurisdiction is jurisdiction of a cause from its beginning. If a party can begin his suit in the circuit court, for instance, we say the circuit court has original jurisdiction in the case. If he can not bring his case into that court until it has been first tried in some lower court, then we say the circuit court has appellate jurisdiction.

Some kinds of causes can be commenced in either of two different courts. Such courts, in such cases, are said to be courts of *concurrent* jurisdiction; that is, either court has jurisdiction of such a cause. If there is but one court in which a case can be brought, that court is said to have exclusive jurisdiction.

The Supreme Court of the United States has original or appellate jurisdiction in all cases arising under the Constitution and laws of the United States, and under treaties, as aforesaid.

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## QUESTIONS.

21. What is the extent of the judicial power?
22. What is meant by judicial power as here used?
23. What is the subject-matter?
24. What is the meaning of the word law?
25. What is the meaning of equity?
26. What is the object of equity jurisprudence?
27. How many kinds of jurisdiction, and what is each?
28. What is concurrent jurisdiction?
29. When is a court said to have exclusive jurisdiction?

## LESSON 69.

*JUDICIAL—Continued.***III. Jurisdiction—Continued.**

2. Original.—By constitutional provision the Supreme Court has original jurisdiction in the following cases :

1. In all cases affecting ambassadors, other public ministers, and consuls.

2. Those in which a State shall be a party.

The last include controversies,

1st. Between two or more States ;

2d. Between a State and the citizens of another State ;  
and,

3d. Between a State or the citizens thereof, and foreign States, citizens, or subjects.

In all the foregoing classes of cases, suits may be commenced in the Supreme Court.

But by the eleventh Article of Amendments to the Constitution :

“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.”

How is a person to obtain relief, then, in case he has a claim against a State ? In the first place, it is presumed that no wise government will withhold justice from its citizens. The citizen to whom the State may be indebted can petition the Legislature direct for redress, unless some other means have been instituted by the State.

Again in some of the States, courts of claims have been established for the same purpose, into which the citizen can bring his claim, by petition or otherwise, for adjudica-

tion ; and, if he shows the State to be indebted to him, the Legislature will make provision for payment.

In 1855, a court of claims was established, by Act of Congress, to hear and determine claims against the United States. The demand is presented to the court by petition, setting forth specifically its origin and nature ; and the party is allowed to prove it by the same rules of evidence that are usually adopted in courts of justice. If a claim is established, Congress makes provision for its payment. An attorney, called the solicitor of the United States, appears in behalf of the government before this court.

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## QUESTIONS.

80. In what cases has the Supreme Court original jurisdiction ?
81. What restrictions are included in the eleventh Article of Amendments ?
82. How is relief to be obtained against a State ?
83. When, and for what purpose, was a court of claims established ?

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## LESSON 70.

### *JUDICIAL—Continued.*

#### III. Jurisdiction—Continued.

3. Appellate.—By the Constitution, the Supreme Court has appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as Congress shall make,

- 1st. In all cases of admiralty and maritime jurisdiction.
- 2d. In controversies to which the United States shall be a party ;
- 3d. Between citizens of different States ;
- 4th. Between citizens of the same State claiming lands under grants of different States.

What is meant by appellate jurisdiction has already been explained. By cases of admiralty and maritime jurisdiction, reference is had to the power to try and determine, on appeal, all causes originating on the high seas, or on rivers, ports, or harbors communicating with the sea, and out of the reach of ordinary courts of justice.

Admiralty causes must arise wholly on the sea or on waters immediately communicating with the sea, and not within the jurisdiction of any country. On the high seas, all nations claim a common right and a common jurisdiction; and therefore causes originating there should come exclusively under the jurisdiction of the national courts.

They can not be brought, however, in the first instance, into the Supreme Court of the United States, but may be appealed into that court after having been commenced and tried by a lower court of the United States, which, by a law of Congress, is an admiralty court.

The subjects for adjudication which properly come into courts of admiralty are, captures in war made on the high seas, captures in foreign ports and harbors, captures made on land by naval forces, and captures made in the rivers, ports, and harbors of the captor's own country.

If an American, commissioned with letters of marque and reprisal, shall make captures as aforesaid, it is his duty to bring them into the court for adjudication. If the court shall decide that the things in controversy were lawfully captured, and according to the usages of war and law of nations, they are awarded to the captors. If the decision is that they were unlawfully seized, they will be awarded by the court to the owners with damages for detention.

The ordinary admiralty and maritime jurisdiction also embraces all civil and criminal cases of a maritime nature. The district courts of the United States, however, as courts of admiralty and maritime jurisdiction, are limited to the

trial of crimes and offenses for which but moderate punishment is inflicted. The graver and higher crimes are referred to the circuit courts as courts of admiralty.

Controversies in which the United States shall be a party are to be adjudicated in the Federal courts. Cases in which the whole people are interested should not be left to the decision of a State court. The United States must bring suit, however, in the first instance, in the inferior courts,—that is, in the district or circuit courts,—and can not reach the Supreme Court except by appeal.

“Unless this power were given to the United States, the enforcement of all their rights, powers, contracts, and privileges, in their sovereign capacity, would be at the mercy of the States. They must be enforced, if at all, in the State tribunals; not only would there be no compulsory power over those courts to perform such functions, but there would be no means of producing uniformity in their decision.”

By Act of Congress, a citizen of one State may bring suit against a citizen of another in the circuit court of the United States in civil matters, provided the matter in controversy exceeds five hundred dollars exclusive of costs. An alien may sue or be sued in this court also for the same amount. And these courts have original jurisdiction also in matters relating to the United States revenue and to copyrights, being cases that arise under the laws of the United States. In all these cases, the Supreme Court has appellate jurisdiction only.

An appeal may be taken from the district court to the circuit court, and from the circuit to the Supreme Court, under certain restrictions and limitations.

Controversies between citizens of the same State claiming lands under grants of different States, must be adjudicated in the United States courts. State courts can not be supposed to be unbiased in cases of this nature.



Claims to lands under grants of different States, founded on adverse pretensions of boundary, would almost forbid the possibility of judicial fairness, candor, and impartiality on the part of the State courts of either granting State.

The State laws may have even prejudged the question, and tied the courts down to decisions in favor of the grants of the State to which they belonged. And, where this has not been done, it would be natural that the judges, as men, should feel a strong predilection for the claims of their own government.\* And, at all events, the providing of a tribunal, having no possible interest on the one side more than the other, would have a most salutary tendency in quieting the jealousies and disarming the resentments of the State whose grant should be held valid.†

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## Q U E S T I O N S .

34. In what cases does the Supreme Court have appellate jurisdiction?
35. By what power may this jurisdiction be restricted?
36. To what do cases of admiralty and maritime jurisdiction refer?
37. Where must admiralty causes arise?
38. Why should these causes be confined to the national courts?
39. What are the subjects for admiralty courts?
40. What is the duty of an American who makes captures under letters of marque and reprisal?
41. What is the result of trial in such cases?
42. What crimes may be tried in the district courts?
43. Where are the higher crimes tried?
44. Where are controversies to be tried to which the United States is a party, and why?
45. In what cases may a citizen of one State sue a citizen of another State in the circuit courts?
46. In what cases has the circuit court original jurisdiction?
47. What is said about appeals?
48. Why should controversies relating to lands claimed under grants of different States be referred to the Federal courts.

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\* Federalist, No. 80.

† Story on Constitution.

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