



LESSON 3



Making Laws

In **Section 7** the framers set out the process for passing laws. Because the states feared a strong federal government, Section 7 also introduces a system of checks and balances. **Sections 8 and 9** limit the power of Congress more, but **Section 10** limits the states.



ARTICLE I



SECTION 7: Passing Laws

1. *Raising money.* To prevent “taxation without representation,” only the “people’s representatives” can propose tax laws. Under the system of checks and balances, however, the Senate can propose amendments.

2. *How a bill becomes law.* The rules for passing a law are probably the most important place that we see the system of checks and balances. Both houses of Congress must pass a **bill**, or proposed law. Then the President must sign the bill before it becomes law.

The President can **veto** or refuse to sign a bill, however. This lets the President “check” the power of Congress. A vetoed bill is sent back to the house where it was introduced with a written statement of the President’s objections. This statement is then entered into the *Congressional Record*.

When a bill is returned, Congress has the right to reconsider it. If **two-thirds** of each house approves the bill, it becomes law, even though the President has vetoed it. This is another place where checks and balances can be seen. In this case, Congress can “check” the President’s power to veto a bill.

A bill may become a law in another way, however. If the President receives a bill but *does not* sign or veto it within ten days (excluding Sundays), the bill automatically becomes a law. Presidents have used this method to allow bills they really do not like to become law.

If Congress adjourns during the ten-day period, however, the bill *does not* become a law. This is called a **pocket veto**, because the bill has, in effect, been kept in the President’s pocket until Congress adjourned.

SECTION 7

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.

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.

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 repassed 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

1. The Congress shall have power: 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;

2. To borrow money on the credit of the United States;

3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

3. *President can approve or disapprove congressional actions.* Any other agreement between the two houses, except to adjourn, must be approved by the President. This keeps Congress from bypassing the President's power to "check" Congress.

SECTION 8: Powers Given to Congress

Because the framers remained suspicious of powerful government, they listed the **enumerated powers**, so-called because they are "numbered and listed."

1. *To tax and pay debts.* The power to tax lets Congress pay the government's debts, provide services to the people, and defend the nation. Even though this is often seen as giving Congress unlimited authority, the power to tax is limited. Export taxes, for example, are specifically prohibited by the Constitution.

2. *To borrow money.* Congress can borrow money to run the government.

3. *To regulate trade.* This "commerce clause" gives Congress broad power to regulate trade.

4. *Naturalization and bankruptcies.* Congress can pass laws about **naturalization** (making foreigners U.S. citizens) and **bankruptcies** (businesses and individuals who cannot pay their debts).

Naturalization laws passed by Congress have allowed millions of immigrants to become U.S. citizens.



5. *Money, weights, and measures.* Congress can make money, decide its worth in terms of foreign money, and set a national system of weights and measures. (All these powers simplify trade.)

6. *Counterfeiting.* Congress can make laws to punish printers of counterfeit (fake) money and other items.

7. *A postal service.* Congress can create a postal service and roads needed for delivering the mail.

8. *Copyrights and patents.* Congress can pass laws granting **copyrights**, exclusive rights to sell literary, musical, or artistic works. Congress can also pass laws that grant **patents**, exclusive rights to use inventions.

9. *Other courts.* Congress can create federal courts that are less powerful than the Supreme Court.

10. *Crimes at sea.* Congress can make laws about crimes committed in any waters where U.S. ships are involved.

11. *Declarations of war.* Only Congress can declare war. Not all wars have been declared, though. To find out more, read the case study, "The 'War Powers Act.'"

12. *Create and support an army.* Defense was an important reason for forming a union of states. Congress has used this power to enact a military **draft** at various times. In 1973, however, Congress ended the draft.

13. *Create and support a navy.* Today the U.S. Navy is one of the largest in the world.

14. *Make rules for the military.* Congress can establish rules to govern the military.

15. *Command state militia (national guards).* In emergencies, the federal government can take control of the state militia from the state's governor.

16. *To regulate state national guards.* Congress makes the basic rules that govern state militia. Although each state has the right to appoint officers, it is responsible for carrying out the rules laid down by Congress.

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

7. To establish post offices and post roads;

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;

9. To constitute tribunals inferior to the Supreme Court;

10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

13. To provide and maintain a navy;

14. To make rules for the government and regulation of the land and naval forces;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

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;

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, dockyards, and other needful buildings;—And

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

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.~~

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.

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

4. No capitation, [or other direct,] tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

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

17. *To establish the capital city and federally owned lands.* This gave Congress the power to establish a capital for the federal government. In 1790, Washington, District of Columbia, was suggested as the capital's location. Since the majority of the population lived along the Atlantic seacoast, Congress agreed. Washington also had the advantage of being centrally located between the North and South. Further, Maryland and Virginia agreed to donate the site to the federal government. Congress also has the power to make laws for Washington, D.C., and for any other federal property, such as military bases.

18. *To make laws needed to carry out the Constitution and govern the nation.* The framers expected the future to bring conditions they had not foreseen. They wanted to let Congress carry out its duties, without being limited by the "enumerated powers." This **elastic clause** lets Congress expand its powers as needed.

SECTION 9: Powers Denied to Congress

1. *Slave trading.* This clause was part of the compromise between the slave-holding states of the South and the nonslave states of the North. The Southern states were allowed to import enslaved people until at least 1808, but they could be required to pay a ten-dollar tax on each one. This clause became obsolete in 1865, when **Amendment 13** outlawed slavery.

2. *Writ of Habeas Corpus.* A **writ of habeas corpus** is an order to bring a prisoner before a judge so that the judge can decide if the prisoner is being held lawfully. If not, the judge can order the prisoner's release.

3. *Bills of attainder and ex post facto laws.* Congress cannot pass a **bill of attainder**, which declares someone guilty without a court trial, or an **ex post facto** law, which makes someone guilty of a crime committed *before* the act was made illegal.

4. *Direct taxes.* Initially, Congress could only pass taxes that were equally divided among the states. Individuals could not be taxed. **Amendment 16** changed this by allowing the individual income tax.

5. *Taxes on exports.* The South approved the commerce clause only when Congress was forbidden to tax exports.

6. *State commerce.* All laws regulating commerce must be applied equally to all states. The framers were convinced that free trade between states was crucial to the nation's survival. To encourage such trade, goods shipped **interstate** (between states) cannot be taxed.

7. *Spending money.* No money can be spent until Congress passes a bill allowing it. This clause lets Congress control the money spent by the entire government. The government must also publish a regular accounting of all money it takes in and spends. Today this duty is fulfilled by the President's annual budget.

8. *Titles of nobility.* With the experience of royal power fresh in their minds, the framers prohibited titles of nobility, such as king. Unless Congress allows it, federal officials cannot accept gifts from foreign countries, for fear the gift would act as a **bribe**. Large gifts from foreign countries have been accepted, but only in the name of the United States.

SECTION 10: Powers Denied to the States

1. *Treaties, coinage, and laws.* A big problem under the Articles of Confederation was that the states acted on their own. To be sure the nation acts as a unit, no state can sign a treaty with another country. The money many states printed was another problem. Because the resulting confusion hurt trade, no state can print money. To further protect **free enterprise**, trade that is free of government restraint, no state can pass laws that interfere with contracts, the basis of trade.

2. *Taxes on imports and exports.* Since the national government was given exclusive power over trade, the states cannot tax imported or exported goods. Over the years, some states have been given the right to charge an "inspection fee" on goods coming into them. Any money collected for inspection must be turned over to the federal government, however.

3. *Duties, the military, and declarations of war.* States cannot tax ships or how much they carry, unless Congress gives permission. Neither can states engage in war or make peace. The only exception is if a state is being invaded or is in immediate danger of being invaded.

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.

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.

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

1. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything 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.

2. No state shall, without the consent of 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.

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.