

## *The Constitution of the United States of America* (1789)

- ★ ***the structure***: identify the structure and sub-structures of the document; how is the text divided? juridical<sup>1</sup> interpretations and debates cite articles, sections & clauses; issues over the meaning of the Constitution have come down to the placement of a semi-colon
- ★ ***separation of powers***<sup>2</sup>: identify several powers possessed by the different branches of the federal government
- ★ ***checks-&-balances***<sup>3</sup>: identify how each branch possesses a check<sup>4</sup> on the power of the other two branches; do any one of the branches seem more powerful than any of the others? why?
- ★ ***the Senate***: identify 5 powers possessed by the U.S. Senate alone

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<sup>1</sup> **juridical**: *adj.* relating to judicial proceedings and the administration of law

<sup>2</sup> **separation of powers**: “The term ‘Separation of Powers’ was coined by the 18th century philosopher Montesquieu. Separation of powers is a model that divides the government into separate branches, each of which has separate and independent powers. By having multiple branches of government, this system helps to ensure that no one branch is more powerful than another. Typically, this system divides the government into three branches: the Legislative Branch, the Executive Branch, and the Judicial Branch. The United States federal government and forty states divide their governments into these three branches.” Wex Legal Encyclopedia, Cornell Law School [www.law.cornell.edu/wex/separation\\_of\\_powers\\_o](http://www.law.cornell.edu/wex/separation_of_powers_o)

<sup>3</sup> **checks-&-balances**: “Separation of Powers in the United States is associated with the Checks and Balances system. The Checks and Balances system provides each branch of government with individual powers to check the other branches and prevent any one branch from becoming too powerful.” Wex Legal Encyclopedia, Cornell Law School [https://www.law.cornell.edu/wex/separation\\_of\\_powers\\_o](https://www.law.cornell.edu/wex/separation_of_powers_o)

<sup>4</sup> **check**: *n.* a means of control or restraint; this meaning of the word *check* dates to the use of Old French, the verb *eschequier*, “to put in check,” when chess was becoming a popular game in Mediterranean Europe (c. 1300CE); the verb *eschequier* itself is a history of chess, based on a Middle Persian word for chess, *chatrang*, which the Arabs brought into the Mediterranean world and later became the Latin interjection *scaccus*, that is, how Latin speakers would exclaim “check!” in the game of chess

- ★ ***the House of Representatives:*** upon what is the House of Representatives based? what are *specific* mechanisms of representation? what is the formula for counting who is represented?
- ★ ***full faith and credit***<sup>5</sup>: how is the concept of full faith and credit in the Constitution different from the Articles of Confederation?
- ★ ***the President:*** what are the specific duties of the President? what is the role of the office in U.S. foreign affairs? what checks does Congress, either branch, have over U.S. foreign affairs?
- ★ ***the Judicial branch:*** how can Congress and the President check the power of the courts?
- ★ ***amendments:*** what is the process for amending the Constitution?
- ★ ***Roman Republic:*** What are some similarities between the U.S. republic and the Roman Republic?
- ★ ***slavery:*** what powers did the Constitution give the federal government over the institution of African slavery in the United States?
- ★ ***treason:*** what is the *exact* definition of treason in the Constitution?

## **terms**

***federalism:*** Federalism is a system of government in which the same territory is controlled by two levels of government. Generally, an overarching national government governs issues that affect the entire country, and smaller subdivisions govern issues of local concern. Both the national government and the smaller political subdivisions have the power to make laws and both have a certain level of autonomy from each other. The United States has a federal system of governance consisting of the

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<sup>5</sup> **full faith and credit:** “The requirement, derived from Article IV, Section I of the Constitution, that state courts respect the judgments of courts from other states. Thus, a judgment won in one state may be enforced in another, without a re-litigation of the underlying issues.” Wex Legal Encyclopedia, Cornell Law School  
[https://www.law.cornell.edu/wex/full\\_faith\\_and\\_credit](https://www.law.cornell.edu/wex/full_faith_and_credit)

national or federal government, and the government of the individual states.

The U.S. Constitution grants the federal government with power over issues of national concern, while the state governments, generally, have jurisdiction over issues of domestic concern. While the federal government can enact laws governing the entire country, its powers are enumerated, or limited; it only has the specific powers allotted to it in the Constitution. For example, Article I, Section 8 of the Constitution grants Congress the power to levy taxes, mint money, declare war, establish post offices, and punish piracies on the high seas. Any action by the federal government must fall within one of the powers enumerated in the Constitution. For example, the federal government can regulate interstate commerce pursuant to the Commerce Clause of the Constitution but has no power to regulate commerce that occurs only within a single state.

***habeas corpus***<sup>6</sup>: “Latin for ‘that you have the body.’ In the U.S. system, federal courts can use the writ of habeas corpus to determine if a state's detention of a prisoner is valid. A writ of habeas corpus is used to bring a prisoner or other detainee (e.g. institutionalized mental patient) before the court to determine if the person's imprisonment or detention is lawful.

A habeas petition proceeds as a civil action against the State agent (usually a warden) who holds the defendant in custody. It can also be used to examine any extradition processes used, amount of bail, and the jurisdiction of the court.”

***corruption of blood***<sup>7</sup>: in English law there is something known as an *attainder*, which would be legally affixed to a person upon their condemnation of a capital crime; “corruption of blood” is an English expression that referred to how the attainder meant all hereditary rights, wealth & title, were abolished

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<sup>6</sup> Article I, Section 9

<sup>7</sup> Article III, Section 3