

HISTORY 165.001
WAR AND DIPLOMACY IN AMERICAN HISTORY
SELECTED FOREIGN POLICY AND NATIONAL SECURITY PROVISIONS OF
THE UNITED STATES CONSTITUTION

This is a highly selective list of excerpts from the United States Constitution. These provisions are the main ones involving government powers relating to foreign affairs and war, though many others may sometimes be involved as well (for instance, such as when an enemy alien claims the protections of the Bill of Rights). My own comments are in italics.

ARTICLE I.—*Legislative powers.*

Section 1. *Description of legislative power granted to Congress*

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 5. *Senate and House may withhold publications of their proceedings if secrecy is required.*

Section 8.—*Specific legislative powers of Congress*

The Congress shall have Power . . .

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes . . .

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy; *How (and why) does this differ from the above provision?*

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

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 . . .

--And

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. *Limitations on national legislative power*

...

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. *Note the passive voice. Who has authority to suspend the privilege?*

No Bill of Attainder or ex post facto Law shall be passed. . . .

Section 10.—*Limitations on state powers*

No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal. . . .

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.—*Executive powers.*

Section 1. *General scope and nature of the executive power*

The executive Power shall be vested in a President of the United States of America. *Compare this wording with that at the beginning of Article I. Differences? Significance of the differences?*

...

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. *Particulars of the chief executive's power*

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 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

Section 4.

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.—*Judicial Powers.*

. . .

Section 2. *Federal jurisdiction*

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 . . . and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects. . . .

Section 3. *Treason*

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. . . .

ARTICLE IV.

. . .

Section 4.

The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence. . . .

ARTICLE VI.

. . .

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. . . .