

REVIEW QUESTIONS

1. What is a constitution?
2. What are the three major devices employed by our Constitution to prevent any one part of the government from becoming too powerful?
3. Explain the principle of SEPARATION OF POWERS.
4. How does the system of CHECKS AND BALANCES work?
5. What is meant by our FEDERAL SYSTEM?

ORGANIZATION OF THE CONSTITUTION

The Constitution, written by our Founding Fathers at the Philadelphia Convention of 1787, presents the fundamental concepts of our American system of government. The document is brief, its language is clear, and its organization is simple.

- The PREAMBLE introduces the Constitution by stating its purpose and authority.
- Articles I - IV describe the framework of the government and its powers and responsibilities.
- Article V sets forth the procedure for changing (amending) the Constitution.
- Article VI states the doctrine of FEDERAL SUPREMACY: that the Constitution shall be the SUPREME LAW OF THE LAND.
- Article VII gives the procedure for ratification of the Constitution.
- Signatures of the delegates to the Constitutional Convention appear at the end.
- The twenty-six amendments follow. The first ten amendments are known as the BILL OF RIGHTS.

UNITED STATES CONSTITUTION

TEXT OF THE CONSTITUTION

Preamble

We, the People of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, 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

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.

NOTES ON THE CONSTITUTION

Note this: "we, the people" establish this Constitution.

The PREAMBLE states the purposes of the Constitution. Everything that our government does should help to further these goals:

1. Unite the country
2. Establish justice
3. Insure peace within the United States
4. Provide for defense against foreign enemies
5. Promote the general welfare
6. Safeguard our freedom for ourselves and future generations.

LEGISLATIVE BRANCH

Two Houses

EXAMPLE: SEPARATION OF POWERS

The CONGRESS makes the laws for the United States

Article I concerns the legislative (law-making) branch of the United States government: The United States Congress, which consists of two houses, the Senate and the House of Representatives.

Section 2

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.

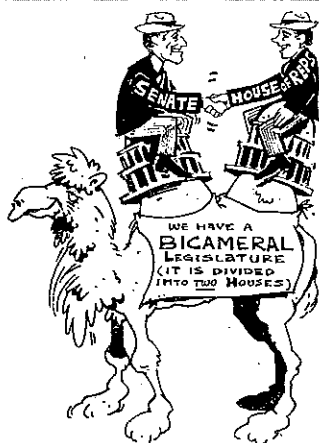
2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

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.

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

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



2- House of Representatives

Section 2 concerns the HOUSE OF REPRESENTATIVES. Remember these points:

1. Members are elected by the people of the state they represent.
2. The term of office is two years. All terms end at the same time. Hence, we have a "new Congress" (actually only a new House of Representatives) every two years.
3. A member of the House of Representatives must:
 - be at least 25 years old.
 - have been a U.S. citizen for at least seven years.
 - live in the state he represents.
4. The chief officer of the House of Representatives is called THE SPEAKER.

Note that some portions of the Constitution no longer apply, or have been changed by amendments. These portions are printed in blue type with no shading. For example in Part 3, Section 2, Article I, "other persons" meant slaves. All slaves were freed by the 13th Amendment. (See page 24)

The number of REPRESENTATIVES and votes that a state has in the HOUSE depends on the number of people who live in the state. Every state is guaranteed at least one Representative no matter how small its population may be.

The seats in the House are REAPPORTIONED every 10 years according to the changes in population among the states. These changes are determined by the CENSUS taken by the national government.

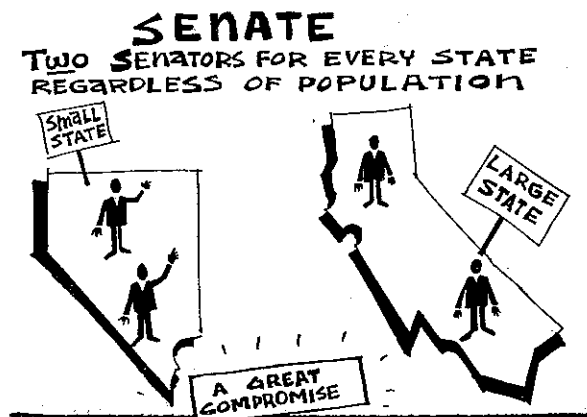
Today, the total membership of the House is fixed at 435 with one Representative for about every 400,000 to 500,000 people.

If a Representative dies or resigns, a special election is held so that the people of his district can elect a new Representative.

Only the House has the right to present charges of misconduct in office. This is called the POWER OF IMPEACHMENT.

Section 3

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.



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.

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.

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

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.

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.**

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.

3-Senate

In the Senate, Nevada, with a population of approximately 800,000, has the same representation as California, with a population of approximately 24,000,000. Regardless of population, each state has two Senators in the U.S. Congress. This compromise was exacted by the smaller states, who feared domination by the larger states.

Senators are now chosen by direct election of the people (see Amendment 17). U.S. Senators are elected for a six-year term. Senatorial elections are held, however, every two years, at which time only one-third of the Senators are elected. This staggering of elections makes the Senate, in contrast to the House, a continuous body.

If a Senator dies or resigns, the governor of his state may appoint someone to complete his term, or to serve until the next general election.

Members of the U.S. Senate must:

- be at least 30 years old.
- have been a citizen for at least nine years.
- live in the state that they represent.

The Vice-President serves as President of the Senate, but may vote only in case of a tie.

With the exception of the President of the Senate, the members of the Senate and House of Representatives decide who their leaders shall be. The people have no direct control over these choices.

EXAMPLE: LEGISLATIVE CHECK ON EXECUTIVE

IMPEACHMENT

To impeach a public official is to ACCUSE him of misconduct. When the House votes to impeach a "civil officer of the United States," it merely presents charges of misconduct in office. Only the Senate has the power to try an officer for these charges. In our history several judges were removed from office by IMPEACHMENT AND CONVICTION—one for drunkenness, one for receiving bribes, and another for questionable behavior. Only one President, Andrew Johnson, was impeached, but he was not convicted nor removed from office. Members of Congress are not "officers" of the U.S. Government and are not subject to the Impeachment Process but may be expelled or punished. (See Sec. V, 2.) Recently, impeachment proceedings were begun against a second President, Richard M. Nixon, but he resigned before the charges were voted on by the entire House of Representatives.

Section 4

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 place of choosing Senators.

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

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.

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.

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.

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

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.**

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.

THE UNITED STATES SENATE

IS A CONTINUOUS BODY



4-Elections and Meetings of Congress

Section 4 deals with the rules governing elections. Section 2 has been superseded (replaced) by Amendment 20.

The Congress now starts its SESSIONS on January 3 (see Amendment 20).

5- Powers and Duties of the Houses

Section 5 describes the powers of the Houses over their members.

The Congress has the right to refuse to seat a member, even though he has been elected by the people, or to punish or to expel a member.

Each house makes its own rules.

The proceedings of the Congress are published in the CONGRESSIONAL RECORD.

In addition to the powers enumerated in this section, the Houses also have certain INHERENT powers. For example, Congress has the power to investigate, to compel witnesses to testify, and to punish nonmembers for CONTEMPT OF CONGRESS.

6- Privileges and Restrictions on Congressmen

Note that members of Congress cannot be sued for anything they say in the House or the Senate.

EXAMPLE: SEPARATION OF POWERS

A member of the legislature is not permitted to hold an office in another branch of the government.

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 becomes a law, be presented to the President of the United States; if he approves, 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.

7- Bills To Raise And Spend Money

BILLS to determine taxes and the spending of money must begin in the House of Representatives. The men who wrote the Constitution believed that the House was more directly under the control of the people and, therefore, should have primary control over the nation's finances. The Senate must approve all money bills and also has the power to amend them.

President's Veto

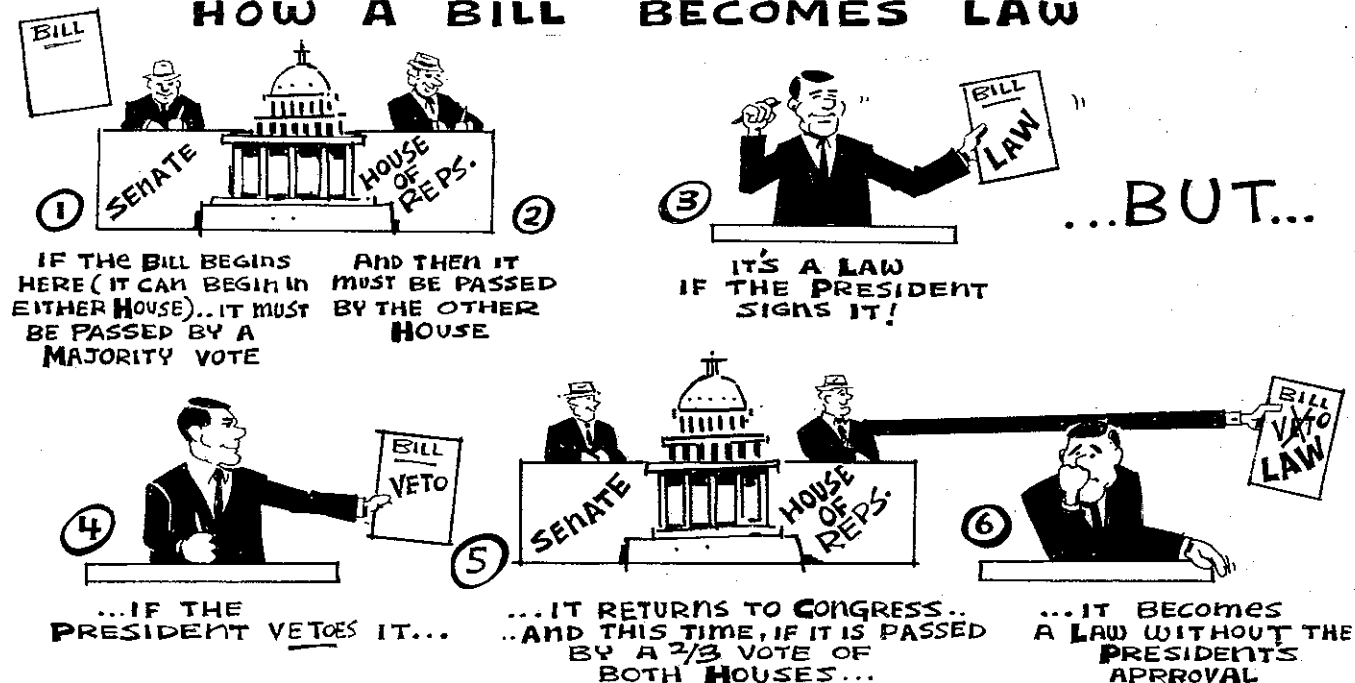
EXAMPLE: EXECUTIVE CHECK ON LEGISLATURE

When the President refuses to approve a bill, we say he has VETOED it.

The procedure in passing a bill is an excellent example of CHECKS AND BALANCES.

A bill can become a law without the President's signature if 2/3 of the members of both Houses vote to override the President's objections. If the President ignores a bill for 10 days while the Congress is in session, the bill automatically becomes law. However, if the Congress adjourns in less than 10 days after sending a bill to the President, and he does not return it with his signature, the bill then fails to become a law. The President's failure to sign a bill, when the Congress is due to adjourn within the next 10 days, is known as a POCKET VETO.

HOW A BILL BECOMES 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

The Congress shall have power:

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts; and provide for the common defence 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 a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States;
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 postoffices 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.

8- Legislative Powers of Congress

Section 8 is generally considered one of the most important parts of the Constitution since it describes the law-making powers of the NATIONAL GOVERNMENT. The section lists two types of powers: ENUMERATED powers, described in detail in paragraphs 1-17; and IMPLIED powers, of paragraph 18, the so-called ELASTIC CLAUSE, because it has the effect of stretching the enumerated powers.

TAXATION is one of the most unpopular, and most necessary, powers of Congress.

Do you own any U.S. savings bonds? This means that the United States has borrowed money from you.

Provision three is called the COMMERCE CLAUSE and has been the basis for much of the increase in the responsibility and power of the federal government.



The Constitution provides for a SUPREME COURT only but gives Congress the power to create lower FEDERAL COURTS.

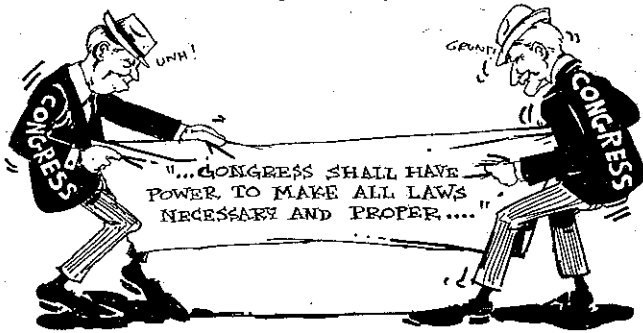
Remember, Congress — not the President has the power to declare war, but the President may engage American troops in military actions to protect national security or fulfill treaty obligations.

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.

THE ELASTIC CLAUSE

Congress has often had to expand the functions of the national government during our history.



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 hereinbefore directed to be taken.

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

Our capital city, Washington, D.C., is governed by the Congress.

Section 8—Clause 18 is known as the ELASTIC CLAUSE because it has allowed a tremendous expansion of the power of the national government during our history. It permits the Congress to pass laws necessary for fulfilling the responsibilities specifically listed in Section 8 and other parts of the Constitution, i.e., to these ENUMERATED POWERS, the ELASTIC CLAUSE adds other, related powers, which we call IMPLIED POWERS. Coupled with the COMMERCE CLAUSE, the ELASTIC CLAUSE is especially important. How can Congress regulate television broadcasting when the Constitution does not mention T.V.? We saw that "Congress shall have power to... regulate commerce... among the several states." COMMERCE means business. Television broadcasting is a business that frequently reaches several states at the same time. Thus, television is classified as INTER-STATE COMMERCE, and the Congress has the right to regulate it.

WRIT OF HABEAS CORPUS



Section 9

HABEAS CORPUS is considered the most important safeguard of personal liberty. The principle protects the individual from being arrested and jailed for an unreasonable length of time without a trial or just cause.

A BILL OF ATTAINDER is a law which automatically punishes a person without a trial. An EX POST FACTO LAW is a new law which punishes an individual for something he did before the law was passed. Such laws are UNCONSTITUTIONAL in the United States.

Note that Section 9, part 1, which is no longer applicable, prohibited the importation of slaves after 1808. Part 4 was repealed by Amendment 16.

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 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.

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.

EXAMPLE: LEGISLATIVE CHECK ON EXECUTIVE

The President may not spend money unless he has the authorization of the Congress. This is an important curb on Presidential power.

Our Founding Fathers were familiar with nations in which the nobility inherited special rights and privileges. This section of our Constitution attempts to establish equality of citizenship.

10- What the States May Not Do

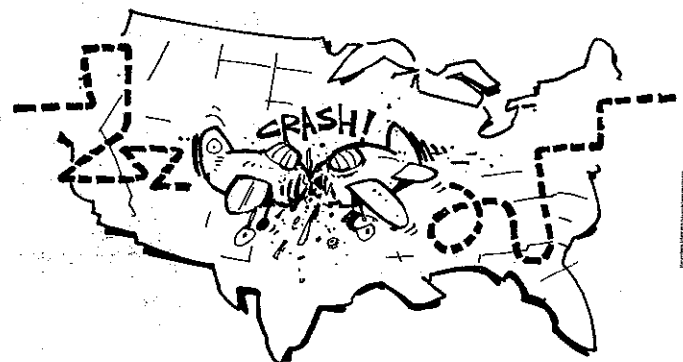
This section lists a number of things the states may not do. Notably, they may not:

1. Have a foreign policy of their own.
2. Have a currency (money) different from that of the United States.
3. Tax imports from other countries or states.

In addition, this section forbids the states to do things that the **NATIONAL GOVERNMENT** is expressly forbidden to do, e.g., pass an ex post facto law.

Notice that there are certain powers delegated to the national government only, such as conducting foreign and military affairs, coining money, and establishing trade restrictions.

You may recall that under the **ARTICLES OF CONFEDERATION** the states sometimes taxed goods coming from other states, just as our federal government now may tax goods coming from foreign nations. Sections 9 and 10 of Article 1 plus the **COMMERCE CLAUSE** have had the effect of creating a great free-trade zone or common market within the United States and have contributed to the tremendous industrial growth of our nation.



WHAT IF EVERY STATE HAD DIFFERENT LAWS... SAY.. REGULATING AIR TRAFFIC ?...