

Introduction to Law

The Constitution
and
States' Rights

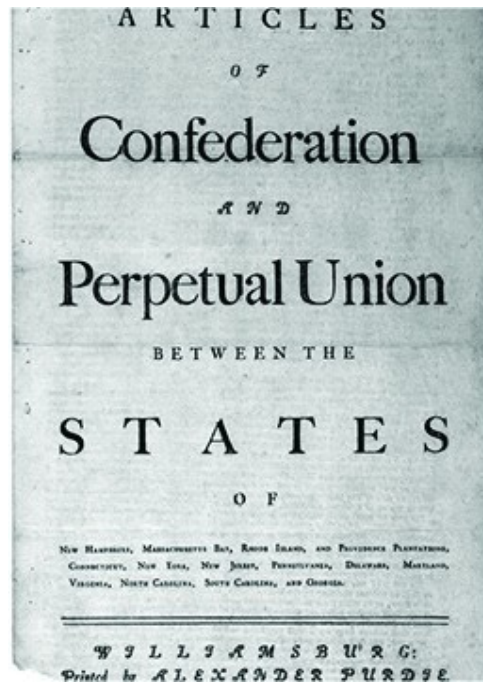
Introduction to Law

The Civil Lawsuit

Part 2



Surrender at Yorktown
October 9, 1781



November 16, 1777



Constitution of the United States adopted September 17, 1787



Constitution of the United States Effective March 4, 1789

Original Constitutional Goals

Create a central government

Protect State powers

Articles of the Constitution

- **Article I** establishes the Legislative Branch.
- **Article II** establishes the Executive Branch.
- **Article III** establishes the Judicial Branch.
- **Article IV** outlines States' powers in relationship to each other.
- **Article V** creates the amendment process.
- **Article VI** deals with conflicts between State and Federal laws.
- **Article VII** establishes ratification procedures.

Article Six (excerpt)

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.

Article 5: Amendments

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...

Constitutional Flexibility

17 Amendments to United States Constitution
(other than Bill of Rights)

7000 Amendments to State Constitutions
(140 average for each State)

Slavery and the Constitution

- **Article I, Section 2:** Slavery used to increase Southern white power in the United States.
- **Article I, Section 9:** Importation of enslaved people protected until 1808.
- **Article IV, Section 2:** Enslaved persons who escape their owners must be returned, even from free states.

Slavery in the United States in 1788

- There were approximately 700,000 enslaved persons in the United States in 1788 out of a total population of about 3,900,000 people (18%).
- There is nothing in the Constitution about freeing enslaved persons.
- No country had freed its enslaved persons before 1788.
- Before 1800 some Enlightenment thinkers such as Voltaire and Kant and other liberal types opposed slavery, but they were relatively small in number.

Ending Slavery around the World

Argentina	1813**
Mexico	1829* **
Great Britain	1834
India	1843**
France	1848*
Indonesia	1860**
Russia	1861
United States	1865
Japan	1868

Egypt	1877
Cuba	1886*
Brazil	1888
Thailand	1905
Congo	1908
China	1910**
Morocco	1920
Turkey	1926*
Saudi Arabia	1962

* Earlier attempts were either ineffective or repealed

** Legislated end of slavery probably ineffective

Who Couldn't Vote in the United States

(Voting eligibility was left to the States)

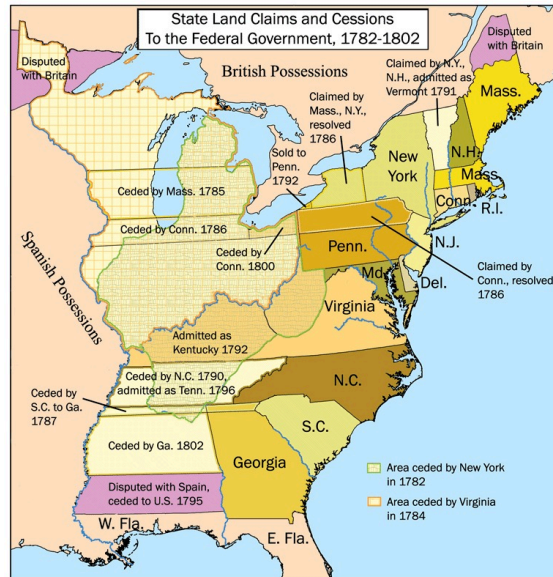
- Enslaved People
- Women (except in CT until 1804)
- Poor people
- Artisans and craftsmen *
- Laborers*
- Indigenous people
- Free people of color (except in 4 states)

* unless they owned property

Who Could Vote in the United States

White Property Owners
Approximately 200,000 to
300,000
Roughly 7- 10% of the
population

The United States in 1788



The Numbers Tell the Story

	The United States	North	South
Total Population	2,964,000	1,595,000	1,294,000
Total Non-Slave Population	2,407,000	1,517,000	737,000
Total Enslaved Population	557,000	37,000	520,000

The 3/5 Compromise

The numbers in the different States, according to the most accurate accounts which could be obtained by the late Federal Convention, were as follow :

In New-Hampshire,	102,000
In Massachusetts,	360,000
In Rhode-Island,	58,000
In Connecticut,	202,000
In New-York,	238,000
In New-Jersey,	138,000
In Pennsylvania,	360,000
In Delaware,	37,000
In Maryland,	218,000
(including three-fifths of 80,000 Negroes)	
In Virginia,	420,000
(including 3-5ths of 280,000 Negroes)	
In North-Carolina,	200,000
(including three-fifths of 60,000 Negroes)	
In South Carolina,	150,000
(including three-fifths of 80,000 Negroes)	
In Georgia	90,000
(including three-fifths of 20,000 Negroes)	

Population figures used to determine representation in the first Congress (New York *Daily Advertiser*, 5 February 1788).

The Mathematics of the 3/5 Compromise

White landowner voting power:

	North	South
If no enslaved people are counted	68%	32%
If all enslaved people are counted	56%	44%
If 3/5's of all enslaved people are counted	60%	40%

Article 1, Section 8: Federal Powers

- Impose and collect taxes to pay its debts and provide for common defense and general welfare
- Borrow money
- Regulate commerce with other countries and between states
- Establish rules for citizenship
- Create and enforce bankruptcy laws
- Coin money and punish counterfeiters
- Establish patent and copyright laws
- Establish courts below the Supreme Court

Article 1, Section 8: Federal Powers (cont.)

- Enforce international maritime laws
- Declare war
- Maintain an army and navy
- Call forth state militias to enforce Federal laws, suppress insurrections and repel invasions
- Create and control a government district and other government lands
- Make all laws necessary and proper for carrying out the foregoing and all other powers of the Federal government vested by the Constitution.

Article 1, Section 10: Limits on State Powers

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.

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 it's 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 Controul of the Congress.

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.

10th Amendment to the Constitution Reservation of States' Rights

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.

The Bill of Rights: Further Restriction on Federal Powers

Amendment 1

Freedom of Religion, Speech, etc.

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.

Amendment 2

Right to Bear Arms

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 [**by the Federal government**].

The Bill of Rights: Further Restriction on Federal Powers

Amendment 3

Limits on Troop Housing

No soldier shall, in time of peace, be quartered in any house infringing the rights of the owner, nor in time of war but in a manner to be prescribed by law.

Amendment 4

Rights against Unreasonable Searches and Seizures

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.

The Bill of Rights: Further Restriction on Federal Powers

Amendment 5

Rights of Accused Persons in Criminal Cases

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 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.

The Bill of Rights: Further Restriction on Federal Powers

Amendment 6

More Rights of Accused Persons in Criminal Cases

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.

The Bill of Rights: Further Restriction on Federal Powers

Amendment 7

Rights in Civil Cases

In suits infringed 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 reexamined in any court of the United States than according to the rules of the common law.

Amendment 8

Excessive Bail, Fines, and Punishments Forbidden

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

The Bill of Rights: The Catch-Alls

Amendment 9

Other Rights Kept by the People

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

Amendment 10

Undelegated Powers Kept by the States and the People

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.

The 14th Amendment

Section 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.

Article III, Section 1: The Federal Judiciary

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 Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

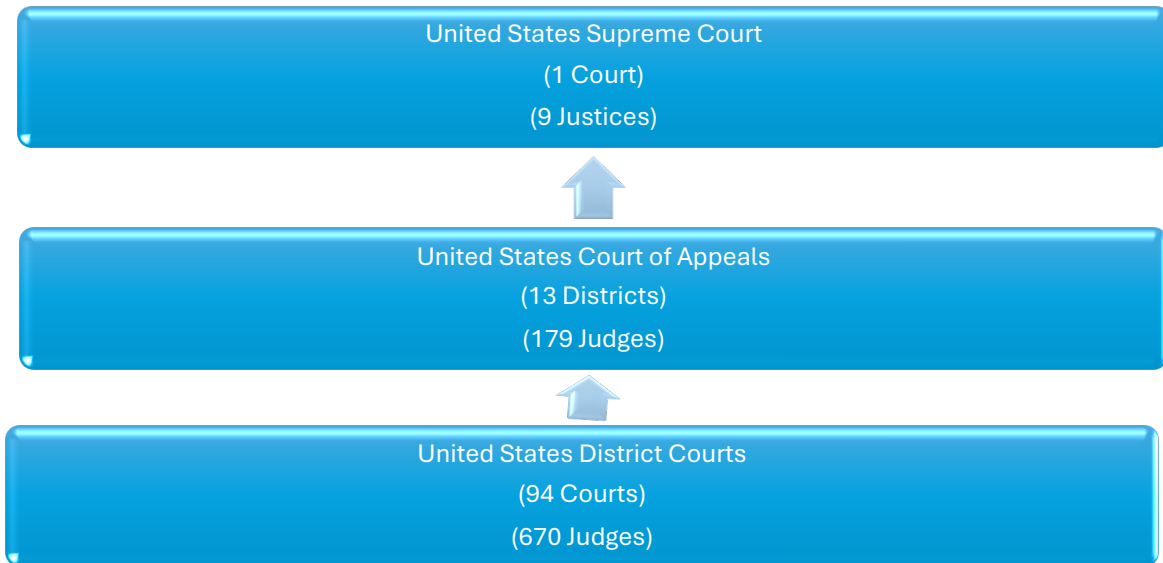
Article III, Section 2: Powers of Federal Courts

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 the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

Limited Matters a Federal Court Can Adjudicate

- **Federal Questions:** Federal courts have jurisdiction to hear cases that raise federal questions, particularly those involving the federal government, the U.S. Constitution, or other federal laws.
- **Diversity Jurisdiction:** Federal courts also hear cases between residents of "diverse citizenship" wherein the issue in dispute meets the set dollar amount. These cases are often between residents of two states, and the amount in controversy is \$75,000 or more.
- **Treaties and Diplomats:** Particular cases that affect or could affect the U.S.'s standing with other countries, including cases addressing treaties with other countries. This includes cases involving ambassadors and public ministers in the U.S. and abroad.
- **U.S. Government Cases:** For example, if you wanted to sue the FBI, you would file suit in federal court, but if you wanted to sue your local sheriff, your state court would take that case.
- **Admiralty:** Cases that involve navigable water bodies in and around the U.S., including the oceans, rivers, and great lakes.

The Federal Court System



50 State Court Systems

New York State Uniform Court System
(1220 Judges)

New York State Court of Appeals
(7 Justices)



New York State Supreme Court Appellate Division
(4 Districts)



New York State Supreme Court
(62 Courts)

Parallel Court Systems in the United States

Federal Courts



U.S. District Courts



U.S. Courts of Appeals



U.S. Supreme Court

State Courts



State Trial Courts



State Appellate Courts



State Supreme Courts



Article Six (excerpt)

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Appeals Panel Rejects Meadows's Request to Move Georgia Case to Federal Court

The judges unanimously ruled against Mark Meadows, a former White House chief of staff and a co-defendant of Donald J. Trump in the state election interference case.



Dobbs v. Jackson Women's Health Organization U.S. Supreme Court (2022)

The Constitution makes no reference to abortion, and no such right is implicitly protected by any constitutional provision.

[It] follows that the States may regulate abortion for legitimate reasons, and when such regulations are challenged under the Constitution, courts cannot substitute their social and economic beliefs for the judgment of legislative bodies.

The Constitution does not confer a right to abortion; and the authority to regulate abortion is returned to the people and their elected representatives.

- Justice Samuel Alito

North Dakota Constitution Permits Abortions

Outlook 2:33 PM Fri Sep 13

...

LTE 65%

Done



Judge overturns North Dakota's near-total abortion ban

The ban was the state's second attempt to block the procedure. But the judge ruled the state constitution gives women a "fundamental right to choose abortion."

[Listen to article](#)



North Dakota Decision

Pregnant women in North Dakota have a fundamental right to choose abortion before viability exists under the enumerated and unenumerated interests provided by the North Dakota Constitution

State District Judge Bruce Romanick

North Dakota South Central District Court

September 12, 2024

Parallel Court Systems in the United States

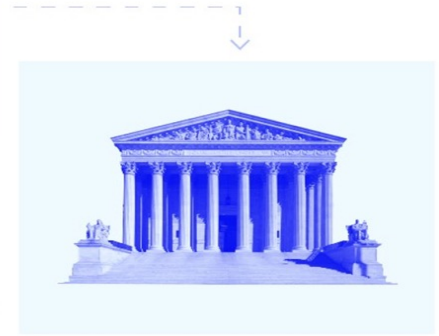
Federal Courts



U.S. District Courts



U.S. Courts of Appeals



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State Courts



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