

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

★ "No attainder of treason shall work corruption of blood." To modern ears this is the most archaic-sounding of any provision in the Constitution. But it sets out an important principle of a just society: That the penalties for treason, as determined by Congress, should only be applied to those convicted of that crime, not to their families.

## ARTICLE IV

### *Section 1*

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

★ As another means to unify the nation, this section requires every state to recognize as legitimate the laws and court judgments of all other states. But it also allows Congress to make laws determining the "effect" that a state law must have in other states. It was that language that opened the way for Congress in 1996 to pass the Defense of Marriage Act (DOMA), which allowed states that forbid marriage by same-sex couples to refuse to recognize such marriages performed in other states (in other words, to say they had "no effect").

review—the power to declare federal or state laws or actions by the other branches of the federal government unconstitutional. That power has its sources chiefly in the Supreme Court's 1803 ruling in *Marbury v. Madison*, in which Chief Justice John Marshall famously wrote that it is "emphatically the province and duty of the judicial department to say what the law is."

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

### *Section 3*

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.

★ Treason is the only crime that the Constitution defines at length. It does that as a means to prevent future governments from redefining it too broadly, for instance to charge political offenders as traitors.

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

★ Just as every state must recognize the laws of other states, each must grant to the citizens of other states the same legal rights and treatment under law that it gives its own citizens. Under the interpretation given to this provision by the Supreme Court, states must provide a significant justification for any measure discriminating against out-of-state residents. Over the years the court has struck down measures as diverse as discriminatory license fees for out-of-state shrimp catchers in South Carolina, a Georgia law that allowed only state residents to obtain abortions in Georgia, and an Alaska law that gave preference to Alaskans for jobs on the Alaska pipeline.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

★ This section obliges states to honor requests from other states for the extradition of fugitives from justice.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

- ★ Once again the framers avoid using the word "slaves" or "slavery." The purpose of this section is to address the problem of fugitive slaves and the responsibility of states, including states in which slavery was abolished, to assist in returning them to their "owners." In 1793 Congress passed the first fugitive-slave law, which laid out procedures for their return. But in the decades that followed, the issue of escaped slaves would become one of the most contentious in American law. Between 1842 and the start of the Civil War 19 years later, the Supreme Court would hear no fewer than four cases touching on the question. Ultimately it would be settled only by the outcome of the war and the 13th Amendment, which abolished slavery throughout the U.S.

### Section 3

New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

- ★ In 1787, the year of the Constitutional Convention, it was well understood that the vast territory between the seaboard states and the Mississippi River would eventually be divided into new states. With this provision the framers made clear that Congress could legitimately oversee the inevitable expansion of the U.S. They also prohibited the formation of new states within the territory of existing states unless the legislatures of both states and Congress approved. All the same, during the Civil War, West Virginia broke away from the slave state of Virginia after the latter seceded. Though Virginia did not consent, Congress granted West Virginia's application to join the Union.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

★ Here the framers make fairly flexible rules for the power that Congress exercises—"to dispose of and make all needful rules and regulations"—over territories that have not yet become states. This too would become a vexing issue in the years leading up to the Civil War, when the nation became consumed by the question of whether to permit slavery on new territories. After the 1898 treaty that acknowledged the U.S. victory in the Spanish-American War, the Supreme Court would also have to deal repeatedly with the question of how the Constitution applied to territories, including Puerto Rico and the Philippines, that were ceded by Spain.

#### *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.

★ The Constitution guarantees to every state "a republican form of government" but does not define it, though most of the framers would have agreed that the term described some form of representative government. The guarantee to states that they could count on the federal government to defend them against "domestic violence" was a response to Shays' Rebellion, the then-recent uprising of debt-ridden farmers and workers in western Massachusetts that the state had proven nearly incapable of suppressing.