



Sources of Constitutional Authority and House Rule VII, Clause 7(c)

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Summary

On January 5, 2011, the House of Representatives adopted an amendment to House Rule VII adding a requirement to all measures introduced in the House of Representatives that are intended to become law. Specifically, Rule VII, clause 7(c) requires that, to be accepted for introduction by the House Clerk, all bills (H.R.) and joint resolutions (H.J.Res.) must provide a document stating “as specifically as practicable the power or powers granted to Congress in the Constitution to enact the bill or joint resolution.” The requirement is mandatory, and the House Clerk appears to have the authority to reject introduction of any bill and/or joint resolution that is not accompanied by such a statement. It should be noted, however, that the rule does not appear to vest the House Clerk with the responsibility or authority to evaluate the substantiality of the required statement. Further, based on the plain language of the rule, such a statement is not required for House Resolutions (H.Res.), proposed amendments to already introduced bills, or other types of measures that may be considered by the House.

Rule 7(c) appears to adopt a subjective standard for determining what specific constitutional authority exists to enact an introduced bill. In other words, the rule appears to leave each individual member free to ascertain, by whatever means the member deems appropriate, his/her own basis for constitutional authority. Should a member choose to consider the Constitution as interpreted by the Supreme Court through its majority opinions, that appears to be permissible under the rule. Equally permissible sources for members to rely on could include their own personal interpretation of the text of the Constitution; documents produced at the Constitutional Convention; sources published contemporaneously with the consideration and ratification of the Constitution by the states; commentaries on the Constitution, academic journal articles, constitutional law treatises, and other publications; the advice of congressional support agencies; the advice of outside groups or think tanks; and any other source that the member believes to be relevant and authoritative.

The language of the rule requires an articulation of the specific textual constitutional basis for a piece of legislation to be made “as specifically as practicable.” In some cases, however, it may be difficult to fully articulate textual constitutional authorities which can serve as the basis for a proposed bill in a summary form. For instance, as the powers of the federal government often overlap with each other, several constitutional authorities may individually suffice to authorize Congress’s authority over a particular subject matter. Further, case law may have either expanded or limited the apparent reach of these authorizations in ways not apparent from constitutional text. In addition, the “Necessary and Proper Clause” and other implied powers may also support the expansion of congressional authority beyond these explicit authorities in ways not easily discernible from the text.

This report will discuss the constitutional authority for four selected categories of legislation: authorization legislation; appropriations legislation; legislation that places conditions on the availability of federal funds; and, finally, legislation that repeals existing laws and/or programs. The report will then set out a list of general types of legislation in alphabetical order, which will be followed by constitutional provisions that might arguably provide the power to legislate on some aspects of this issue. Please refer to the Table of Contents for a convenient list of the types of legislation so addressed.

Contents

House Rule VII, Clause 7(c).....	1
Summary of the Rule	1
Signature and Publication Requirement	1
Ability to Update and Amend	1
Standard/Criteria for Determining Constitutional Authority	2
Enforcement	2
Statements of Constitutional Authority Versus Analysis of Constitutionality	2
Constitutional Authority for Selected Types of Proposed Legislation	4
Authorization Legislation.....	4
Appropriations Legislation.....	5
Conditional Legislation Providing Federal Funds (Spending Legislation)	5
Legislation Repealing Existing Laws, Agencies, and/or Programs	5
Specific Constitutional Textual Authorities	6
List of Types of Legislation and Textual Authorities	7
Appropriations	7
Army (Creation and Maintenance)	7
Bankruptcy Regulation.....	7
Business Regulation.....	7
Census Procedures and Methods	7
Civil Rights Enforcement	8
Civil Rights Regulation (Disparate Economic Treatment).....	8
Commercial Activity Regulation	8
Constitutional Amendments	8
Copyright Regulation.....	9
Counterfeiting Punishment.....	9
Currency, Standard Weights and Measures	9
Debt (Federal Government).....	9
District of Columbia.....	9
Due Process Enforcement	10
Election Law (Poll Tax Abolition Enforcement)	10
Election Laws (Federal)	10
Emolument, Office, or Title (Acceptance by Federal Official)	10
Equal Protection Enforcement.....	11
Federal Courts (Creation and Regulation).....	11
Federal Courts (Exceptions to Jurisdiction)	11
Full Faith and Credit (Manner of Proving).....	11
Habeas Corpus Suspension.....	12
Immigration Regulation	12
Interstate Travel Regulation	12
Labor Regulation	12
Letters of Marque and Reprisal	12
Military Regulation.....	12
Militia Regulation	13
Militia Use to Suppress Insurrection or Repel Invasions	13
Navy (Creation and Maintenance).....	13
Necessary and Proper Regulations to Effectuate Powers.....	13

Patent Regulation	13
Piracy, Crimes on the High Seas, and Offences Against Nations	13
Post Offices	14
Presidential and Vice-Presidential Disability Regulation.....	14
Presidential Electors (Time of Vote Casting).....	14
Presidential Electors for District of Columbia.....	14
Presidential Secession Regulation	15
Presidential Vacancy and Disability Regulation	15
Privileges or Immunities Enforcement.....	16
Property Regulation, Federal.....	16
Republican Form of State Government Guarantee	16
Rules of Each House (Providing for by Legislation)	16
Slavery, Involuntary Servitude and Racial Discrimination	16
Spending Authorization.....	17
State Admission to the Union	17
State Imposts and Duties (Congressional Consent)	17
State Interstate or Foreign Compacts (Congressional Consent)	17
States Duties (Congressional Consent)	17
States Keeping Troops or Ships in Peace (Congressional Consent)	18
Tariffs	18
Taxation.....	18
Taxation (Income).....	18
Territories	18
Treason Punishment	19
Voting Age Reduction Enforcement.....	19
Voting Discrimination Regulation	19
War, Power to Declare.....	19
Women’s Suffrage Regulation	19

Contacts

Author Contact Information	20
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House Rule VII, Clause 7(c)

Summary of the Rule

On January 5, 2011, the House of Representatives adopted an amendment to House Rule VII adding a requirement to all measures introduced in the House of Representatives that are intended to become law.¹ Specifically, Rule VII, clause 7(c) requires that, to be accepted for introduction by the House Clerk, all bills (H.R.) and joint resolutions (H.J.Res.) must provide a document stating “as specifically as practicable the power or powers granted to Congress in the Constitution to enact the bill or joint resolution.”² The requirement is mandatory, and the House Clerk appears to have the authority to reject introduction of any bill and/or joint resolution that is not accompanied by such a statement. It should be noted, however, that the rule does not appear to vest the House Clerk with the responsibility or authority to evaluate the substantiality of the required statement. Further, based on the plain language of the rule, such a statement is not required for House Resolutions (H.Res.), proposed amendments to already introduced bills, or other types of measures that may be considered by the House.

With respect to measures from the Senate that are intended to become law, such as Senate bills (S.) and Senate joint resolutions (S.J.Res.), the rule provides that, prior to their consideration by the House, “the chair of a committee of jurisdiction may submit the statement ... as though the chair were the sponsor of the Senate bill or joint resolution.”³ As this requirement is by its plain language permissive, it appears as though consideration of Senate bills and joint resolutions will not be procedurally affected if a statement of constitutional authority is not provided.

Signature and Publication Requirement

It is important to note that the rule does not require that the statement of constitutional authority be made part of the text of a proposed bill or joint resolution. Rather, it appears that these statements are to be provided to the House Clerk at the time of introduction as a separate document.⁴ Although the statements will not be part of the bill text, the rule does provide that the statements are to be signed by the sponsoring member, printed in the *Congressional Record*, and are to be made publicly available in electronic form by the Clerk.⁵

Ability to Update and Amend

While the rule appears to only apply to the introduction of bills and joint resolutions in the House, there is nothing in the rule’s text to indicate that the constitutional authority statement cannot be updated or amended at other points in the legislative process. As bills work their way through committee and onto the floor, they are often amended and, as a result, sponsoring members may

¹ H.Res. 5 § 2(a), 112th Cong. (2011).

² *Id.*

³ *Id.*

⁴ A form has been prepared by House Legislative Counsel to facilitate the submission of House Bills in compliance with the Rule. See <http://legcoun.house.gov/members/cas.html>.

⁵ H.Res. 5 § 2(a).

feel that the basis for constitutional authority provided at introduction is no longer relevant or accurate. While the rule does not require that members ensure that the statement of constitutional authority be updated to reflect changes to the bill, there appears to be nothing that prevents or prohibits a sponsoring member from amending or updating the statement to respond to changes made during the due course of the legislative process.

Standard/Criteria for Determining Constitutional Authority

The rule appears to adopt a subjective standard for determining what specific constitutional authority exists to enact an introduced bill. In other words, the rule appears to leave each individual member free to ascertain, by whatever means the member deems appropriate, his/her own basis for constitutional authority. Should a member choose to consider the Constitution as interpreted by the Supreme Court through its majority opinions, that appears to be permissible under the rule. Equally permissible sources for members to rely on could include their own personal interpretations of the text of the Constitution; documents produced at the Constitutional Convention, such as James Madison's *Notes on the Constitutional Convention of 1787*; sources published contemporaneously with the consideration and ratification of the Constitution by the states, such as the *Federalist Papers*, *Anti-Federalist Papers*, and the ratification debates of the state legislatures; commentaries on the Constitution, such as Joseph Story's *Commentaries on the Constitution of the United States* or *The Heritage Guide to the Constitution*; academic journal articles, constitutional law treatises, and other publications; the advice of congressional support agencies; the advice of outside groups or think tanks; and any other source that the member believes to be relevant and authoritative.⁶ The language "as specifically as practicable" suggests that the members should cite a specific clause or provision of the Constitution as the basis for authority, but the rule does not appear to actually require such a citation.

Enforcement

As discussed above, while the Clerk appears to have the ability to reject bills that are introduced without an accompanying statement of constitutional authority, no other enforcement mechanism or procedural action appears to be provided for by the rule. In other words, once the statement is properly included with the bill at introduction, the rule is satisfied and members have no legal or procedural recourse against a statement, even if they believe the constitutional authority statement is incomplete, inaccurate, or improper. Thus, the fact that a member may disagree with a statement of constitutional authority does not appear to provide the member with a legal or procedural basis on which to prevent or delay consideration of a properly introduced bill or joint resolution.

Statements of Constitutional Authority Versus Analysis of Constitutionality

Conceptually and analytically, it seems critical to make a distinction between what the rule requires of members and what it does not. Specifically, this requires understanding the difference

⁶ See Majority Leader Eric Cantor, *New Constitutional Authority Requirement for Legislation*, <http://republicanwhip.house.gov/Rules/>.

between “a statement of constitutional authority to act” and “an analysis of the constitutionality” of a proposed bill or joint resolution. These are two separate and discrete questions that require different types of analysis and, most importantly, may produce different results.

The House rule is asking the member to identify the provision or clause of the Constitution that grants Congress the authority to enact the bill that is being introduced. Phrased another way, the question that the House rule is arguably asking of members is, what part of the Constitution gives Congress the power to act in the manner being proposed. The rule does not appear to be asking whether the specifics of what the member is proposing in the bill are consistent with the Constitution. That is a separate, often times much more complex inquiry. For example, legislation intending to prohibit the interstate sale and distribution of material related to animal cruelty or depictions of child pornography is arguably within Congress’s authority to act under Article I, § 8, clause 3, commonly referred to as the Commerce Clause. Thus, to comply with the House rule, a statement accompanying the bill identifying the Commerce Clause as the basis for Congress’s authority to act appears to fully satisfy the member’s obligation.⁷

Nothing in the statement required by the rule, however, speaks to whether the particular components of the legislation are in fact constitutionally permissible in light of provisions in the Constitution that may place limitations or disabilities on Congress’s authority to act. Although Congress may have the requisite constitutional authority to regulate the interstate sale of material related to animal cruelty or child pornography, reaching that conclusion in no way requires the consideration of whether the First Amendment constrains or disables Congress’s authority with respect to these materials. The consideration of constitutional limitations or disabilities on Congress’s authority, such as the First, Ninth, and Tenth Amendments, appears to be outside the scope of the House rule. The House rule arguably only requires the member to state the constitutional basis for authority to act, not whether the action is constitutionally permissible in light of other potentially disabling or limiting provisions.

Another factor potentially complicating analysis under the rule is the likelihood that Congress may be able to rely on multiple constitutional provisions for authority to enact a proposed bill. The recently enacted Patient Protection and Affordable Care Act (PPACA)⁸ is an example of such a statute. Had this rule been in effect when PPACA was introduced, the constitutional authority cited could arguably have been the Commerce Clause, Article I, § 8, clause 3, as PPACA attempts to regulate the national market for health insurance and health care. PPACA, however, in addition to regulating interstate commerce, also contains language that can be authorized by other provisions of the Constitution. For instance, PPACA, in several sections, provides appropriated funds to agencies to carry out the requirements of the act. Appropriations are authorized by Article I, § 9, clause 7, not the Commerce Clause. Additionally, PPACA contains several sections that provide for “fast track” consideration of certain types of legislation by the Senate. Legislation governing the internal rules and procedures utilized by Congress is authorized by Article I, § 5, clause 2, not the Commerce Clause.

Given the analytical and conceptual distinction between Congress’s constitutional authority to act and an act’s constitutionality, the possibility of conflicting results is clear. Again, PPACA can

⁷ *Id.* (Providing as an example of citation of constitutional authority: “This bill is enacted pursuant to the power granted to Congress under Article I, Section 8, Clause 3 of the United States Constitution”).

⁸ Patient Protection and Affordable Care Act, P.L. 111-148 (2010), as amended by the Health Care and Education Reconciliation Act of 2010, P.L. 111-152 (2010).

serve as an illustrative example. The fact that there is arguably a basis for constitutional authority to act under the Commerce Clause in no way impacts an analysis of whether the specific provisions within PPACA are legitimate exercises of Congress's power under the Commerce Clause. As a result, there has been litigation regarding PPACA's individual mandate, which, to date, has resulted in conflicting judicial decisions with respect to the mandate's constitutionality.⁹

Constitutional Authority for Selected Types of Proposed Legislation

Although there are thousands of bills introduced in the House of Representatives each Congress, they can be broadly categorized into selected groupings for purposes of discussing possible bases of constitutional authority. This section of the report will discuss four such broad categories of legislation: authorization legislation; appropriations legislation; legislation that places conditions on the availability of federal funds; and, finally, legislation that repeals existing laws and/or programs. This is not intended to be an exhaustive discussion of types of legislation, but is provided to illustrate the analytical framework for determining proposed legislation's constitutional authority. As discussed above, nothing in this discussion considers or discusses the constitutionality of specific proposed legislation.

Authorization Legislation

Perhaps the most commonly used general category of legislation introduced during a Congress is authorization legislation. Generally, authorization bills will propose the establishment, or continuation (referred to as a reauthorization bill) for an agency or program, and will provide the necessary legal authority for that agency to operate and/or for the program to be carried out. As there is no specific clause in the Constitution that provides general authority for authorization bills, most will require an analysis based on the specific subject matter of the proposed bill. For example, a bill authorizing activities of the military or defense department programs would arguably be constitutionally authorized by Article I, § 8, clauses 12, 13, or 14, which grant Congress the power to regulate the Army, Navy, and Military respectively. Alternatively, a proposed bill authorizing or reauthorizing the Federal Aviation Administration (FAA) would arguably be constitutionally authorized by Article I, § 8, clause 3, the Commerce Clause. The Commerce Clause could serve as the basis for constitutional authority, as the regulation of aviation arguably has a direct impact on commerce between the states as well as between foreign nations. As discussed above, the only requirement imposed by the House rule is to provide a basis for constitutional authority; the rule does not require an assessment of a proposed bill's constitutionality. Thus, it would appear that many introduced bills that authorize general federal government activity and/or programs will be able to cite Article I, § 8, clause 3, the Commerce Clause, as the basis for constitutional authority.

⁹ Compare *Virginia ex rel. Cuccinelli v. Sebelius*, No. 3:10cv188-HEH (E.D. Va., filed Dec. 13, 2010) (holding the individual mandate provisions of PPACA unconstitutional) with *Thomas More Law Ctr. v. Obama*, 2010 U.S. Dist. LEXIS 107416 (Oct. 7, 2010) (holding the individual mandate provision to be a "reasonable means of effectuating Congress's goal"); *Liberty Univ., Inc. v. Geithner*, 2010 U.S. Dist. LEXIS 125922 (Nov. 30, 2010) (same).

Appropriations Legislation

Funding the activities of the federal government is typically done through the enactment of annual appropriations bills. There are three main types of appropriations bills: (1) regular or general, of which there are typically 13 annual appropriations bills; (2) supplemental appropriations bills, which are used to address emergency funding and other unexpected contingencies; and (3) continuing appropriation resolutions or CRs, which provide stop-gap funding for agencies and programs that have not had their annual appropriations bills enacted by the end of the fiscal year.¹⁰ Article I, § 9, clause 7 specifically provides the constitutional authority for each of the various types of appropriations bills. As previously discussed, larger, more complex bills may include provisions that appropriate funds, even though the bill has other more general purposes. Thus, while individual provisions of a bill may be constitutionally authorized by the appropriations power, a member may still consider it necessary to provide a statement of constitutional authority for those parts of the bill not covered by the Appropriations Clause.

Conditional Legislation Providing Federal Funds (Spending Legislation)

Often members of Congress will introduce bills that are intended to provide incentives for the states to perform certain functions that the federal government is not authorized to perform directly. An example of such legislation is the requirement for there to be a minimum drinking age, which is not directly imposed by federal law, but rather has been adopted by the states so that they annually receive the full allotment of federal highway funds. States that opt not to maintain the minimum drinking age are required to have their allotment of highway funds reduced by 10% annually.¹¹ Bills that are introduced that purport to take similar actions can arguably be constitutionally authorized by the “general welfare” language found in Article I, § 8, clause 1, commonly referred to as the Spending Clause. Again, as discussed above, this analysis does not address the question of whether the specific bill in question exceeds the scope of the Spending Clause, as articulated by the Supreme Court.¹² That is a question of constitutionality, not of constitutional authority.

Legislation Repealing Existing Laws, Agencies, and/or Programs

It is expected that many members may introduce legislation that proposes to repeal an existing law, eliminate a federal agency, and/or defund a specific program. As the Constitution contains no

¹⁰ Arguably a fourth category exists; namely, omnibus appropriations bills. An omnibus appropriations bill is the combination of the 13 annual appropriations bill into one single measure. Although this happens on occasion, such omnibus bills do not appear to be legally distinct from the annual appropriations bills so as to justify their own category. Often, if not always, the decision to create an omnibus appropriations bill is a political one, not a legal or constitutional one.

¹¹ See 23 U.S.C. § 158(a)(1) (2006).

¹² Specifically, the Supreme Court has held that such conditions on federal spending are constitutionally permissible provided that, if Congress desires to condition the states’ receipt of federal funds, it must do so unambiguously, enabling the states to exercise their choice knowingly, cognizant of the consequences of their participation; and that conditions on federal grants must be related to a national concern. See *South Dakota v. Dole*, 483 U.S. 203, 206-09 (1987).

direct language addressing the power of repeal, determining the constitutional authority for such a proposal may prove elusive. One potential argument for the constitutional authority to repeal laws, agencies, or programs is that the authority to repeal is the same as the authority to create. If, for example, a member wished to introduce a bill proposing the elimination of the Department of Education, he/she might choose to cite the Commerce or Spending Clauses discussed above, as they were arguably the source of constitutional authority for having created the Department of Education. While a member may believe that the reason for introducing the bill is to restore the proper balance between the states and the national government pursuant to the Tenth Amendment, such a citation is arguably not consistent with the House rule. The Tenth Amendment is not an affirmative grant of authority to Congress; rather, it is a limitation or disability on Congress's authority to legislate. Hence, because the House rule requires "a statement citing ... the power or powers granted to Congress ...,"¹³ not merely a statement of constitutional provisions, citations to the Tenth Amendment do not appear to satisfy the requirement of the House rule.

Another closely related type of legislation is legislation intended to revoke a final agency regulation pursuant to the Congressional Review Act (CRA).¹⁴ The CRA permits any member to introduce a joint resolution of disapproval of any federal agency rule within 60 legislative days after Congress has received the rule.¹⁵ Because such resolutions must be presented to the President for his signature or veto, they are intended to become law. Therefore, resolutions pursuant to the CRA are subject to the rule in the House upon their introduction. The CRA provides a statutory basis for the introduction of the resolution, but the House rule requires a statement of constitutional, not statutory, authority. Arguably, the advantage to introducing a resolution under the CRA is that, if done properly, the resolution is eligible for certain expedited procedures, particularly when it comes to Senate consideration, that potentially make it easier to move through Congress.¹⁶ Thus, the constitutional authority for joint resolutions of disapproval is arguably Article I, § 5, clause 2, which provides Congress the authority to determine the rules of its proceedings.

Specific Constitutional Textual Authorities

As noted above, it may be difficult to fully articulate the textual constitutional authorities which can serve as the basis for a proposed bill, as the various powers of the federal government may overlap, so that several constitutional authorities might individually suffice to authorize Congress's authority over a particular subject matter. Further, case law may have either expanded or limited the apparent reach of these authorizations. In addition, the "Necessary and Proper Clause"¹⁷ and other implied powers may also support the expansion of congressional authority beyond these explicit authorities in ways not easily discernible from the text.

¹³ H.Res. 5 § 2(a), 112th Cong. (2011).

¹⁴ 5 U.S.C. §§ 801-808 (2006).

¹⁵ *Id.* at § 802(a).

¹⁶ *Id.* at § 802(c)-(f).

¹⁷ Article I, § 8, Cl. 18 provides that "The Congress shall have Power ... To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof." In *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316 (1819), Chief Justice Marshall interpreted the clause, stating "Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional." *Id.* at 420.

Outlined on the following pages is a list of general types of legislation and related provisions of the Constitution that might arguably provide the power to legislate on some aspects of an issue. An analysis of relevant case law regarding all provisions of the Constitution may be found in the treatise *CONSTITUTION OF THE UNITED STATES OF AMERICA: ANALYSIS AND INTERPRETATION*, prepared by the American Law Division of the Congressional Research Service. Under P.L. 91-589, a hard copy of this treatise has been provided to all Members of Congress, and a searchable version of the treatise is available on the CRS website under the Quick Link “Constitution Annotated.”¹⁸

List of Types of Legislation and Textual Authorities

Appropriations

Article I, Section 9, Clause 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.

Army (Creation and Maintenance)

Article I, Section 8, Clause 12

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

Bankruptcy Regulation

Article I, Section 8, Clause 4

The Congress shall have Power *** To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States.

Business Regulation

Article I, Section 8, Clause 3

The Congress shall have Power *** To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

Census Procedures and Methods

Article I, Section 2, Clause 3

¹⁸ See <http://crs.gov/analysis/Pages/constitutionannotated.aspx>.

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 chuse 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.

Civil Rights Enforcement

Fourteenth Amendment, Section 5

Section 1: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and 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.

Section 5: The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Civil Rights Regulation (Disparate Economic Treatment)

Article I, Section 8, Clause 3

The Congress shall have Power *** To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

Commercial Activity Regulation

Article I, Section 8, Clause 3

The Congress shall have Power *** To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

Constitutional Amendments

Article V

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; Provided that no Amendment

which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Copyright Regulation

Article I, Section 8, Clause 8

The Congress shall have Power *** 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.

Counterfeiting Punishment

Article I, Section 8, Clause 6

*** To provide for the Punishment of counterfeiting the Securities and current Coin of the United States.

Currency, Standard Weights and Measures

Article I, Section 8, Clause 6

The Congress shall have Power *** To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures.

Debt (Federal Government)

Article I, Section 8, Clause 2

The Congress shall have Power *** To borrow Money on the credit of the United States.

District of Columbia

Article I, Section 8, Clause 17

Congress shall have power *** 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 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, dock-Yards, and other needful Buildings.

Due Process Enforcement

Fourteenth Amendment, Section 5

Section 1: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and 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.

Section 5: The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Election Law (Poll Tax Abolition Enforcement)

Twenty-Fourth Amendment, Section 2

Section 1: The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

Section 2: The Congress shall have power to enforce this article by appropriate legislation.

Election Laws (Federal)

Article I, Section 4, Clause 1

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but Congress may at any time make or alter such Regulations, except as to the Place of chusing Senators.

Emolument, Office, or Title (Acceptance by Federal Official)

Article I, Section 9, Clause 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.

Equal Protection Enforcement

Fourteenth Amendment, Section 5

Section 1: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and 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.

Section 5: The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Federal Courts (Creation and Regulation)

Article I, Section 8, Clause 9

The Congress shall have Power *** To constitute Tribunals inferior to the supreme Court.

Article III, Section 1

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.

Federal Courts (Exceptions to Jurisdiction)

Article III, Section 2

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the Supreme Court shall have original Jurisdiction. In all 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.

Full Faith and Credit (Manner of Proving)

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.

Habeas Corpus Suspension

Article I, Section 9, Clause 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.

Immigration Regulation

Article I, Section 8, Clause 4

The Congress shall have Power *** To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States.

Interstate Travel Regulation

Article I, Section 8, Clause 3

The Congress shall have Power *** To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

Labor Regulation

Article I, Section 8, Clause 3

The Congress shall have Power *** To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

Letters of Marque and Reprisal

Article I, Section 8, Clause 11

The Congress shall have power *** To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water.

Military Regulation

Article I, Section 8, Clauses 14

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

Militia Regulation

Article I, Section 8, Clause 16

The Congress shall have Power *** 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.

Militia Use to Suppress Insurrection or Repel Invasions

Article I, Section 8, Clause 15

The Congress shall have Power *** To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions.

Navy (Creation and Maintenance)

Article I, Section 8, Clause 13

The Congress shall have Power *** To provide and maintain a Navy.

Necessary and Proper Regulations to Effectuate Powers

Article I, Section 8, Clause 18

The Congress shall have Power *** To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof.

Patent Regulation

Article I, Section 8, Clause 8

The Congress shall have Power *** 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

Piracy, Crimes on the High Seas, and Offences Against Nations

Article I, Section 8, Clause 10

The Congress shall have Power *** To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations.

Post Offices

Article I, Section 8, Clause 7

The Congress shall have Power *** To establish Post Offices and post roads.

Presidential and Vice-Presidential Disability Regulation

Article II, Section 1, Clause 6

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President declaring what Officer shall then act as President, and such Officer shall act accordingly until the Disability be removed, or a President shall be elected.

Presidential Electors (Time of Vote Casting)

Article II, Section 1, Clause 4

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

Presidential Electors for District of Columbia

Twenty-Third Amendment, Section 2

Section 1: The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

Section 2: The Congress shall have power to enforce this article by appropriate legislation.

Presidential Secession Regulation

Twentieth Amendment, Section 4

**** Section 4: The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Presidential Vacancy and Disability Regulation

Twenty-Fifth Amendment, Section 4

Section 1: In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Section 2: Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Section 3: Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Section 4: Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principle officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

Privileges or Immunities Enforcement

Fourteenth Amendment, Section 5

Section 1: 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.

Section 5: The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Property Regulation, Federal

Article IV, Section 3, Clause 2

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.

Republican Form of State Government Guarantee

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.

Rules of Each House (Providing for by Legislation)

Article I, Section 5, Clause 2

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Slavery, Involuntary Servitude and Racial Discrimination

Thirteenth Amendment, Section 2

Section 1: Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2: Congress shall have power to enforce this article by appropriate legislation.

Spending Authorization

Article I, Section 8, Clause 1

The Congress shall have Power 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.

State Admission to the Union

Article IV, Section 3, Clause 1

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.

State Imposts and Duties (Congressional Consent)

Article I, Section 10, Clause 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.

State Interstate or Foreign Compacts (Congressional Consent)

Article I, Section 10, Clause 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.

States Duties (Congressional Consent)

Article I, Section 10, Clause 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.

States Keeping Troops or Ships in Peace (Congressional Consent)

Article I, Section 10, Clause 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.

Tariffs

Article I, Section 8, Clause 1

The Congress shall have Power 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.

Taxation

Article I, Section 8, Clause 1

The Congress shall have Power 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.

Taxation (Income)

Sixteenth Amendment

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

Territories

Article IV, Section 3, Clause 2

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.

Treason Punishment

Article III, Section 3, Clause 2

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.

Voting Age Reduction Enforcement

Twenty-Sixth Amendment, Section 2

Section 1: The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Section 2: The Congress shall have power to enforce this article by appropriate legislation.

Voting Discrimination Regulation

Fifteenth Amendment, Section 2

Section 1: The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2: The Congress shall have power to enforce this article by appropriate legislation.

War, Power to Declare

Article I, Section 8, Clause 11

The Congress shall have power *** To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water.

Women's Suffrage Regulation

Nineteenth Amendment, Section 2

Section 1: The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Section 2: Congress shall have power to enforce this article by appropriate legislation.

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