# The Amendments

*Congress of the United States*
*begun and held at the*
*City of New-York, on*
*Wednesday the fourth of March,*
*one thousand seven hundred and eighty nine.*

THE Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution.

RESOLVED by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following Articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all, or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution; viz.

ARTICLES in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

★ The delegates to the Constitutional Convention considered including a Bill of Rights within their new document, but settled instead upon a promise to make that the first order of business for the new Congress they were establishing. To do otherwise would probably have meant additional months of wrangling in Philadelphia at a time when the framers were tired from their long efforts and ready to go home. As the preamble on the facing page notes, when the proposed Constitution was under consideration in the various state ratifying conventions, many there had also remarked on the importance of adding "further declaratory and restrictive clauses."

Accordingly, on June 8, 1789, James Madison introduced a series of 17 proposed amendments in the House of Representatives. Though he wanted them incorporated directly into the main text of the Constitution, he backed down in the face of arguments that Congress had no power to revise the language of the original document. On September 25, Congress approved and transmitted to the states a package of just 12 amendments. By December 15, 1791, ten of those had been approved by the necessary three-fourths majority of the states. To this day we call those first ten amendments, as Madison did, the Bill of Rights.

## AMENDMENT I

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.

★ Touching upon core values of a free society—freedom of religion, speech, the press, and assembly—the remarkably compact First Amendment has long been one of the most powerful and hotly contested provisions of the Constitution. The language forbidding the government to favor any religion originally constrained actions only by the federal government. In the 19th century, for instance, many states continued to provide public support to favored denominations. It was only in the 20th century that this changed, due to the court doctrine called "incorporation." Armed with the language of the 14th Amendment forbidding states to "abridge the privileges and immunities" of U.S. citizens or deny them "equal protection of the laws," courts increasingly held that the Bill of Rights applied to actions by state governments as well as to the federal government and obliged them to recognize the constitutional rights of their citizens. But disputes continue to arise over questions such as whether governments can offer aid to parochial schools or permit religious symbols on public property.

Remarkably, in light of its importance to us today and the many Supreme Court decisions it has given rise to, the Supreme Court's first major rulings on the free speech provision of the First Amendment did not begin until after World I. In particular, in 1919 Justice Oliver Wendell Holmes, in *Schenck* v. *United States,* articulated his famous "clear and present danger" standard for determining what kinds of speech government

might legitimately limit, offering his now famous example of a man falsely shouting "fire" in a crowded theater. Yet in that ruling Holmes and the Court actually upheld the conviction of a man sentenced for distributing 15,000 leaflets arguing that people should peacefully resist the World War I draft law. But within the year Holmes would dissent, in *Abrams* v. *United States*, from a court ruling that upheld another set of convictions, this time of five Russian immigrants who had called for a general strike to protest the decision of President Woodrow Wilson to send American troops to Russia. In that dissent Holmes argued for the importance of the "free trade in ideas," writing that "the best test of truth is the power of the thought to get itself accepted in the competition of the market."

## AMENDMENT II

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.

★ To early Americans, state militias represented a line of defense against the possibility that a standing national army could be used to suppress the rights of citizens and states. In the modern controversy over gun control, the Second Amendment has led to endless arguments over whether it was fashioned to guarantee an individual right to firearms, or merely to safeguard the right to keep and bear them as part of a "well regulated militia." Before the 20th century the Supreme Court heard few Second Amendment cases, in part because there were few laws regulating firearms outside the South, where laws often barred African-Americans from owning them.

With the rise of organized crime during Prohibition, Congress passed the National Firearms Act of 1934, which required owners to register sawed off shotguns and automatic weapons and imposed taxes on them. In the 1939 ruling *United States* v. *Miller* the Court held that because such weapons were not part of the equipment of an ordinary militia they were not protected by the Second Amendment. But in its 2008 ruling, *District of Columbia* v. *Heller,* which overturned a handgun ban in the U.S. capital, the Court changed direction, recognizing an individual right to bear arms while also allowing that government can regulate firearms in some circumstances.

## AMENDMENT III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

★ This amendment forbids a practice that's virtually unknown today, but was still a sore point in late 18th century America. During the Revolutionary War British soldiers were sometimes assigned to "quarters" in American homes, often with unwilling hosts. This amendment forbids the practice for American soldiers entirely in time of peace, and allows it in wartime only under such circumstances as the law permits. In more recent years the Third Amendment has also provided one support for the idea that the Constitution contains an implicit "right of privacy," which the Court has used to uphold laws legalizing birth control and abortion.

## AMENDMENT IV

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.

★ This is another provision that grew out of American experience under British rule, when British soldiers, custom agents and other authorities frequently used open-ended general warrants, often based on no firm suspicions—no "probable cause"—to conduct blanket searches without a magistrate's authorization. The Fourth Amendment now stands as a foundation of the right to put limits on the power of police and other authorities, including public schools and public employers, to conduct wiretaps and other electronic surveillance or procedures like sobriety and drug tests. In the important 1961 ruling *Mapp* v. *Ohio* the Supreme Court ruled that courts could exclude trial evidence that police had obtained by improper means.

## AMENDMENT V

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 for the same offence 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 first part of the Fifth Amendment ensures that citizens, or at least civilians, who are accused of a serious federal crime must be brought before a grand jury of ordinary citizens, whose job it is to determine if the government has sufficient evidence to bring the charge. (Many states still do not require grand jury indictments for serious state crimes.) The prohibition against "double jeopardy," or being tried twice or more for the same crime, enshrines in the Constitution a longtime principle of English common law. So does the ban on self-incrimination, a protection that has become famous to Americans as "taking the Fifth." It also serves as the basis for parts of the Supreme Court's 1966 ruling in *Miranda* v. *Arizona* that persons in custody must be informed by police that they have the right to remain silent and that anything they say may be used against them in court. The amendment then promises that no one can be deprived of "life, liberty or property" without "due process of law," a broad phrase meant to curtail the abuse of power by government. The last portion, the so-called "takings clause," is designed to ensure that government cannot simply seize private property—for instance, to build highways or airports under its power of "eminent domain"—without paying for it.

## AMENDMENT VI

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 defence.

★ The right to a speedy and public trial ensures that government ordinarily cannot hold accused persons for long periods, a form of punishment in itself. Neither can it conduct secret trials along the line of the English Court of Star Chamber, which was abolished in the 17th century but long remained a symbol of despotic procedure. The guarantee that jury trials must take place in the "district" where the crime occurred prevents government from assigning the accused to trial in distant locations. Courts have been permitted, however, to move highly publicized trials when it appeared that pre-trial publicity might make it impossible to find an impartial local jury.

The Supreme Court has held that the right "to be informed of the nature and cause of the accusation" forbids charges formulated in language that is too general or far reaching. The clause concerning witnesses ensures, among other things, that the accused may cross-examine witnesses against him and use subpoena power to require witnesses to appear in court. Finally, the stipulation that the accused has the right of counsel serves as the basis for the second portion of the "Miranda warning." Growing out of the court's 1966 ruling in *Miranda* v. *Arizona,* this requires police to inform the accused that he or she has the right to an attorney and to have that attorney present during police questioning. It also requires that if they cannot afford one a court-appointed attorney will be provided at no cost. The right to a court-appointed attorney in all felony cases had been given its definitive statement by the court just three years earlier, in its landmark 1963 ruling in *Gideon* v. *Wainwright.*

## AMENDMENT VII

In Suits 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 re-examined in any Court of the United States, than according to the rules of the common law.

★ This amendment strikes modern ears as somewhat peculiar—"twenty dollars"?—but in its first part it was meant to ensure that jury trials would be used in civil suits as well as in criminal cases, something that opponents of the Constitution felt was not guaranteed in the original document. The second part, restricting judges from re-examining the facts determined by a jury except by the rules of common law, put limits on the power of federal judges to set aside jury verdicts.

## AMENDMENT VIII

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

★ The Eighth Amendment does not attempt to quantify "excessive" bails or fines—no "twenty-dollar" rule here—but it lays down a reminder that accused persons are innocent until proven guilty and should not be burdened with bail that is impossible to meet, which might require them to languish in prison unnecessarily before they stand trial. Neither should those who have been convicted be subject to monetary penalties out of proportion to their crimes.

The prohibition against "cruel and unusual punishment" has set the stage for the modern debate over the death penalty, which was widely accepted in 18th century America. Death penalty opponents argue that the notion of cruel and unusual is an evolving standard. But except for a few years in the 1970s, the Supreme Court has held that the Amendment does not prohibit capital punishment.

## AMENDMENT IX

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

★ This is a provision of the Constitution that the courts rarely address, but it was important to early Americans, who feared that if they produced a Constitution that enumerated many specific rights, it might be assumed that any they failed to mention were rights they did not intend to secure. The Ninth Amendment is a broad assertion that rights not named in the text might still be retained by the people.

## AMENDMENT X

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.

★ When the 1787 text of the Constitution was sent out to state ratifying conventions, this was one of the guarantees that "antifederalists"—those who were suspicious of a stronger central government—were most anxious to add to the document. When James Madison unveiled it as part of his proposed amendments in the first Congress, some members sought to strengthen the amendment by changing its terms to read "powers not expressly delegated" to the U.S.—a proposal the House voted down 32–17. Though there have been periods, especially in the late 19th and early 20th century, when the Supreme Court has relied on the Tenth Amendment to strike down federal laws, overall the Amendment has not become an instrument for opposing federal power. But it remains a perennial arguing point for advocates of states' rights.

## AMENDMENT XI

*Passed by Congress: March 4, 1794*
*Ratified: February 7, 1795*

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

★ This amendment, the first to be ratified after the Bill of Rights four years earlier, is one of only two adopted expressly to counteract a decision of the Supreme Court. (The other is the 16th, which gave Congress the power to tax individual incomes directly.) It modifies the portion of Article III, Section 2 that specified the kind of cases that the newly created federal courts could hear. Among those were disputes between "a State and Citizens of another State." Accordingly, in 1793 the Supreme Court ruled in *Chisolm* v. *Georgia* that it could hear a case brought against the state of Georgia by a citizen of South Carolina (who was the executor of an estate seeking payment for supplies provided to Georgia during the Revolutionary War). The English common principle of "sovereign immunity" had long held that a government cannot be sued without its consent. But when Georgia refused to appear in court, the justices ruled 4–1 in favor of the plaintiff. The decision caused such an uproar that the 11th Amendment, which stripped the court of that power, was quickly drafted and approved.

## AMENDMENT XII

*Passed by Congress: December 9, 1803*
*Ratified: June 15, 1804*

The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President,

shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

★ This amendment modifies Article II, Section 1 of the Constitution, which established the complicated system of electors for the president and vice president. The framers expected voters to choose electors as individuals, who would likewise cast their votes for president on the basis of a candidate's individual merits. The electors were also expected to cast two ballots. The candidate receiving the largest number would become president; the runner-up, vice president. But with the rise of political parties electors were pledged in advance to vote for the "tickets" of their parties. And in the election of 1800, Thomas Jefferson and Aaron Burr, both representing the Republican party, received an equal number of votes, though it had been the party's intention that Jefferson should become president and Burr the vice president. The election was sent to the House, where Jefferson finally prevailed. The 12th Amendment required that, in future, electors would vote separately for the two offices. It also reduced from five to three the number of candidates the House would choose among in the event that no candidate received a majority of electoral votes.

## AMENDMENT XIII

*Passed by Congress: January 31, 1865*
*Ratified: December 6, 1865*

***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.

★ It took the Civil War to resolve at last the conflict over slavery that the framers had labored to avoid addressing directly. The 13th Amendment was the first of three far-reaching additions to the Constitution ratified in the years just after the war. Section 2, which explicitly empowers Congress to adopt any necessary further measures to enforce the amendment, was added in part because the Supreme Court, which had upheld slavery in the infamous Dred Scott ruling of 1857—a decision this amendment effectively overturned—was not trusted to do the job. Congress soon approved the Civil Rights Act of 1866 to overrule so-called "Black Codes" adopted by former states of the Confederacy to deny or curtail the right of newly freed slaves to own property, testify in court against whites, enter into contracts, travel, speak in public, assemble, or bear arms. The Black Codes would be short-lived, but they would provide a basis for Jim Crow laws that would later proliferate across the South to accomplish the same denial of basic rights to African-Americans. It would require the Civil Rights revolution of the 1960s to more completely follow through on the process of full citizenship that abolition merely set in motion.

## AMENDMENT XIV

*Passed by Congress: June 13, 1866*
*Ratified: July 9, 1868*

***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.

***Section 2***

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

***Section 3***

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or

military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

***Section 4***

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

***Section 5***

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

★ No addition to the Constitution has proven to be more powerful or far reaching than the 14th Amendment. None has done more to create a nation in which the federal government has the power to remedy injustices done to citizens by the action of states. Section 1, with its guarantee of "equal protection of the law" and "due process" and its directive that no law should abridge the "privileges and immunities of citizens," ensured that Congress would have clear Constitutional support for its actions under the Civil Rights Act of 1866.

Section 2 was drafted to ensure the vote to freed slaves. It effectively repeals the provision of the Constitution that allowed slave states to count slaves as three-fifths of a person for purposes of deciding their population and thus how many Representatives each state could send to Congress. It also stipulates that any state that withholds the vote from its citizens—or at least its males over the age of 21—will have its citizen head count reduced in proportion to the number it disenfranchises. (Despite the new amendment, in the 1870s, as whites regained control of Southern legislatures, they were able to deny voting rights to African-Americans without interference from Congress.) Section 2 does however allow states to deny the right to vote to former Confederates, for "participation in rebellion."

Section 3 prohibits former Confederates from becoming office holders, as many attempted to do right after the Civil War, until such time as Congress should decide to lift that ban.

With the Civil War debt in mind, Section 4 guarantees that the federal debt will be honored, while at the same time forbidding government responsibility for Confederate debt. It also made clear that former slave owners would not be compensated for the "lost" economic value of their freed slaves.

The possibilities inherent in the 14th Amendment would not be fully explored until the 20th century. For decades after it was ratified, the Supreme Court would give a narrow interpretation of its guarantees. In particular, it did not hold that the Amendment required state and local government to adhere to the Bill of Rights. In one of the most notable examples, in 1896 the Court ruled in *Plessy* v. *Ferguson* that a Louisiana law requiring racial segregation of railway cars did not violate the equal protection clause.

In the early 20th century, however, the Court began to apply the Bill of Rights to states more frequently, especially after *Gitlow* v. *New York*, a 1925 ruling that the First Amendment protections of free speech and the press applied to the states. After World War II the Court also made frequent use of the equal-protection clause to block discriminatory state action, especially on the basis of race or gender. Among the rulings that relied on that clause was *Brown* v. *Board of Education* (1954), which declared segregated schools to be unconstitutional.

## AMENDMENT XV

*Passed by Congress: February 26, 1869*
*Ratified: February 3, 1870*

### *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 the power to enforce this article by appropriate legislation.

★ Whereas the 14th Amendment specified penalties for states that denied the vote to any of its male citizens 21 years of age and above, this Amendment puts the voting rights of freed slaves explicitly into the Constitution. Even so, Southern states would increasingly find ways to disenfranchise black citizens through such measures as literacy tests and poll taxes, supported when necessary by outright intimidation and violence. It would take the Voting Rights Act of 1965 to fully ensure that the right to vote would not be abridged for reasons of race or color.

## AMENDMENT XVI

*Passed by Congress: July 2, 1909*
*Ratified: February 3, 1913*

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.

★ Throughout the 19th century the question of whether Congress had the power to tax individual incomes led to controversy. The chief issue revolved around whether an income tax was a "direct tax." If so, it was unconstitutional, since the Constitution stipulated that direct taxes could only be levied by Congress on the states in proportion to their respective populations. All the same, a temporary income tax imposed during the Civil War was upheld by the Supreme Court in 1881 as an indirect tax. But in a highly charged 1895 case, *Pollock* v. *Farmers' Loan & Trust Co.*, the Court struck down a peacetime income tax law passed the previous year, a "flat tax" of 2% on all incomes above $4,000. This amendment overturned most of that ruling. In October, 1913, just eight months after the amendment was ratified, Congress passed a federal income tax law, this time with a graduated rate that imposed higher tax rates on higher incomes.

## AMENDMENT XVII

*Passed by Congress: May 13, 1912*
*Ratified: April 8, 1913*

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

★ Article I, Section 3 mandates that Senators be elected not by the voters but by state legislatures. By this, the framers hoped to insulate the Senate, as the "upper chamber" of Congress, from popular passions. But by the late 19th century, direct election of Senators had become a rallying cry of the Progressives, who saw the Senate as a hotbed of wealth and privilege whose members were often chosen by corrupt means. This amendment ensured that the Senate, like the House, would be chosen by voters.

## AMENDMENT XVIII

*Passed by Congress: December 18, 1917*
*Ratified: January 16, 1919*

***Section 1***

After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

***Section 2***

The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

***Section 3***

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

★ The amendment that prohibited the "manufacture, sale, or transportation of intoxicating liquor" was the only one designed to limit rather than protect the rights of Americans and the only one to be repealed by a later amendment. It was the fruit of the temperance movement, a decades-long crusade against alcohol. In the 1850s a dozen states, starting with Maine, enacted bans on alcohol. By the end of that decade all of them had repealed the laws in the face of citizen opposition, but after the Civil War, a number of states and localities once again adopted similar bans. Temperance activists pushed for a nationwide ban, despite the unpopularity of the idea in cities, especially those where immigrants had brought from Europe a culture of wine and

beer. Section 3 of the 18th Amendment, requiring that the ratification process be completed within seven years, was added by the Senate in the hope that the anti-alcohol forces could be held off for that long. It was the first instance of a time limit provision being included in the text of an amendment, a practice that would later become common. But it failed in its purpose. Within 13 months, 44 state legislatures had voted to ratify. Soon after, Congress adopted the Volstead Act, the law that created the framework for implementing Prohibition.

## AMENDMENT XIX

*Passed by Congress: June 4, 1919*
*Ratified: August 18, 1920*

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 sex.

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

★ An amendment to give the vote to women was first introduced in Congress in 1878. A decade later came another written in substantially the same language that the 19th Amendment would eventually use. When supporters of women's suffrage failed to get their amendment through Congress, they turned to state legislatures. By 1912 nine Western states had granted women the vote. Suffragists also resorted at times to the courts, but with less success. In particular, in 1875 the Supreme Court rejected the argument that a woman's right to vote was guaranteed under the "privileges and immunities" clause of the 14th Amendment. By the time the 19th Amendment was ratified, Congress already included its first woman, Rep. Jeanette Rankin of Montana, first elected in 1917.

## AMENDMENT XX

*Passed by Congress: March 2, 1932*
*Ratified: January 23, 1933*

***Section 1***

The terms of the President and the Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

***Section 2***

The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

***Section 3***

If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

*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.

*Section 5*

Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

*Section 6*

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

★ This amendment eliminated the unproductive "lame duck" sessions of Congress during even numbered years that had been created by Article I, Section 4 of the Constitution. It also partly remedied the problem of lame-duck presidencies by moving up the date of the presidential inauguration from March to January, shortening the time that a president who had not been re-elected remained in office before his successor assumed the presidency. Finally it clarified some problems of presidential succession—for instance, that the vice-president elect would become president-elect in the event that the president-elect should die before taking office.

## AMENDMENT XXI

*Passed by Congress: February 20, 1933*
*Ratified: December 5, 1933*

***Section 1***

The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

***Section 2***

The transportation or importation into any State, Territory, or Possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

***Section 3***

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

★ Prohibition proved to be a massive failure. Though it sharply curtailed alcohol consumption in the U.S., it never ended it. (And the consumption of alcohol was actually not the thing the 18th Amendment prohibited—merely its manufacture, sale, and transportation.) Federal, state, and local law enforcement was overwhelmed by the effort to enforce the ban. Worse, organized crime on a scale unknown in the U.S. emerged to provide the forbidden liquor citizens wanted. The 21st Amendment did not explicitly restore the right to produce and sell alcohol but it returned to states the right to regulate it as they saw fit. To establish a means for direct expression of popular approval for the amendment, and to fend off opposition to repeal in state legislatures where temperance forces still had influence, Section 3

places ratification in the hands of state conventions. It also put a seven-year time limit on the process. In fact, it took just a little over nine months from the time Congress approved the amendment until a sufficient number of state conventions had ratified it.

## AMENDMENT XXII

*Adopted by Congress: March 21, 1947*
*Ratified: February 27, 1951*

***Section 1***

No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

***Section 2***

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

★ George Washington's decision to step down from the presidency at the end of his second term became a precedent that was followed by all of his successors until Franklin Delano Roosevelt. Running as a wartime leader, Roosevelt was easily re-elected to a third

and then a fourth term. But after his death in April 1945 the Republicans who soon after took control of Congress pushed to make the two-term limit a constitutional requirement.

## AMENDMENT XXIII

*Adopted by Congress: June 16, 1960*
*Ratified: March 29, 1961*

### *Section 1*

The District constituting the seat of Government of the United States shall appoint in such manner as 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.

★ The Constitution provided representation for the citizens of "states." It also gave Congress the power to establish for the nation's capital a "federal district" outside the territory of any state. And so for almost two centuries citizens of the District of Columbia, established on land ceded by Maryland and Virginia, existed in a sort of legal limbo with respect to the democratic process at the federal level. This amendment extended to them for the first time the right to vote in presidential elections. Or, to put it in the

language of the electoral college "to choose electors" equal to the number of Senators and House members the District would have if it were a state—though no more than the number of electors of the least populous state, which is presently three. The version of this amendment approved by the Senate would also have given the District a Representative in Congress, but the House revised it to produce the current, more limited language. For now the nation's capital sends a Representative who can speak from the House floor but cannot vote on the final passage of legislation.

## AMENDMENT XXIV

*Adopted by Congress: August 27, 1962*
*Ratified: January 23, 1964*

### *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 poll tax or other tax.

### *Section 2*

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

★ The poll tax—a levy imposed on voters—was a means by which Southern states attempted to keep African-Americans from voting. By 1964 only five states still required it, but it remained a hated symbol of obstacles put in the way of full citizenship for black Americans. Even after the amendment was ratified, some Southern states attempted to retain the tax for state elections. In 1966 the Supreme Court struck down those laws as a violation of the equal-protection clause of the 14th Amendment.

## AMENDMENT XXV

*Adopted by Congress: July 6, 1965*
*Ratified: February 10, 1967*

***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 principal 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.

★ This amendment was designed to clarify the situation when a president dies in office or is disabled. Article II, Section 1 of the Constitution provided that the vice president shall "discharge the Powers and Duties" of the president in the event of the latter's "Death, Resignation, or Inability." This amendment made clear that the vice president actually becomes president in the event of his predecessor's death and does not merely carry out, or "discharge," his duties. Article II also did not establish procedures to determine that a living president was disabled, as well as to allow him to resume office should he recover. After President James Garfield was shot by an assassin in 1881, he lay in a coma for two months before his death. In 1919 President Woodrow Wilson suffered a stroke that left him partially disabled for years. In neither case was the disability provision of the Constitution invoked.

## AMENDMENT XXVI

*Adopted by Congress: March 23, 1971*
*Ratified: July 1, 1971*

***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.

★ The controversy over the Vietnam War gave a particular urgency to the question of whether Americans old enough at 18 to serve in the military should be denied the vote until they were 21. In the Voting Rights Act of 1970 Congress attempted to lower the voting age by statute for all elections, on the federal, state, and local levels. But the Supreme Court held that same year that Congress could establish the voting age only for federal elections, making this amendment necessary. After it was adopted by Congress, it took just a little over three months before it was ratified by the necessary number of states—the fastest ratification of any amendment.

## AMENDMENT XXVII

*Adopted by Congress: September, 1789*
*Ratified: May 7, 1992*

No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of representatives shall have intervened.

★ It took this amendment over 200 years to find its way into the Constitution. It was first proposed by James Madison on June 8, 1789 when he submitted to Congress the amendments that became the Bill of Rights. Its intention was to prevent Congress from voting itself a pay raise by requiring that no increase could take effect until after the next Congress had been voted in. Transmitted to the states that September, it failed to be ratified by the necessary three quarters. There the matter stood for nearly two centuries, until 1982, when Gregory Watson, an undergraduate at the University of Texas, wrote a paper about it. Later he would become a legislative aide in Austin. Convinced that the idea deserved a place in the Constitution, he started a letter writing campaign to state legislatures. In 1939 the Supreme Court had ruled that any amendment could be ratified at any time after its transmission to the states, so long as no time-limit for that process had been set within the text. By the spring of 1992, 41 states had approved the amendment, making it part of the Constitution.