

Lesson 34: *Restraints on Congress*

(Less. Time 40:32)

[for Sunday, October 11, 2015]

Reading: *The Making of America*, pages 465-488

(Chapter 19) The Restraints on Congress

Pre-lesson questions for homework study and review: [*Supplemental* notes are bracketed]
[287 Constitution Provisions “principles” in text.]

1. HOW DID THE FOUNDERS DEAL WITH THE SUBJECT OF SLAVERY IN THE CONSTITUTION? WHY WAS THIS THE BEST POSSIBLE ARRANGEMENT AT THAT TIME? (PAGES 466-70)

Restraints on Congress Sec I.9

First time in history that restraints were placed on a legislative body

Provision 107 — Until 1808 no prohibition on importing persons

- o Founders wanted slavery omitted
- o All colonies and races had slaves
- o No union if prevented

2. WHAT WAS THE PURPOSE OF A TAX ON IMPORTED PERSONS? WHY WAS IT LIMITED IN THE CONSTITUTION? (471)

Provision 108 — No import tax of person shall exceed \$10

3. WHAT IS A WRIT OF HABEAS CORPUS? ARE THERE ANY RESTRICTIONS ON ITS USE? (472-74)

Provision 109 — The Right of Habeas Corpus suspended only for safety

- o Habeas Corpus – “have the body” before court to hear charges
- o During rebellion or invasion – no time for trial
- o Prevents arbitrary imprisonments

4. WHAT IS A BILL OF ATTAINDER? WHY WAS IT USED? WHY DID THE FOUNDERS FORBID CONGRESS TO USE IT? (475)

Provision 110 — Congress to pass no bill of attainder

- o A legislative act declaring a person guilty of a crime
- o Must be convicted in court of law

5. WHAT IS AN EX POST FACTO LAW?

Provision 111 — No ex-post-facto law

- o Passing a law against an act after it has occurred

HOW IS CONGRESS RESTRICTED IN RELATION TO SUCH LAWS? (476-77)

- o 5 ways:
 - 1 charging a crime which was not illegal when committed
 - 2 made [making] offense more serious
 - 3 made [making] punishment greater
 - 4 [making] new rules of evidence
 - 5 deprive [depriving] one of protection after the fact

6. WHAT IS A CAPITATION TAX? HOW DOES THE CONSTITUTION RESTRICT ITS USE? (477-78)

Provision 112 — No capitation [income] tax except by population

- o capitation = head
- o prevented wealth or income taxes [overridden by 16th Amendment (that no one wanted, yet it became law)]

7. WHAT ARE DIRECT TAXES? ACCORDING TO THE FOUNDERS, UNDER WHAT CIRCUMSTANCES SHOULD THEY BE ASSESSED? (478-81)

Provision 113 — No direct tax on states except by population

- o direct tax – on person or property
 - only in emergency

8. WHY DID THE FOUNDERS PROHIBIT CONGRESS FROM TAXING GOODS EXPORTED FROM A STATE? (482-83) [a)It could disrupt the union b)It could be used to *impose more power* c)It could *create dangerous economic wars* d) It could cause *economic sectionalism*]

- o Indirect tax – on things

9. HOW DID THE FOUNDERS ENSURE THAT FEDERAL LAWS WOULD NOT FAVOR ONE STATE'S WEAPONS OVER THOSE OF ANOTHER STATE? (483)

Provision 114 — No export tax on any state

- o Insisted by southern states who sold cotton to Europe

10. HOW DID THE FOUNDERS ENSURE THE FREE FLOW OF SHIPPING AROUND THE SHORES OF THE UNITED STATES? (484)

Provision 115 — No preference of one port over another

11. WHAT EXPRESS PROHIBITION DOES THE CONSTITUTION IMPOSE REGARDING THE WITHDRAWAL OF MONEY FROM THE U.S. TREASURY?

Provision 117 — No money spent [but] by appropriation bill

HOW HAVE FEDERAL AGENCIES BEEN CIRCUMVENTING THIS RULE? (484-85)

- o Ways which Congress invented to avoid:

- 1 Confidential fund for CIA
- 2 Cost plus 10%
- 3 Trust Funds
- 4 Federal Reserve may deduct “expenses”
- 5 estimated budget funds
- 6 “off-budget” items

12. WHAT KIND OF RECORDS MUST BE KEPT WITH REGARD TO PUBLIC EXPENDITURES? (485-S6)

Provision 118 — Accounts of income and expenditures to be published

13. WHAT CONSTITUTIONAL RESTRICTION PREVENTS THE FEDERAL GOVERNMENT FROM CREATING A PRIVILEGED CLASS IN THE UNITED STATES? (486)

Provision 119 — No title of nobility

- o Dukes, marques, earl, count, baron, etc.
- o Prevents division into classes (artificial aristocracy)

14. HOW DID THE FOUNDERS SEEK TO PREVENT FEDERAL OFFICIALS FROM BEING UNDULY INFLUENCED BY FOREIGN AGENTS? (487-88)

Provision 120 — No office holder to accept any gift or title from any foreign country or person

- o Unless Congress authorizes
- o Prevents foreign influence of ambassadors

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QUIZ - LESSON 34

1. THE CONSTITUTION WAS THE FIRST TIME IN HISTORY THAT RESTRAINTS HAD BEEN PLACED

UPON A _____ BODY.

2. THE FEDERAL GOVERNMENT COULD NOT PROHIBIT THE IMPORTATION OF SLAVES UNTIL THE

YEAR _____ .

3. CONGRESS COULD NOT IMPOSE A TAX EXCEEDING _____ DOLLARS ON ANY IMMIGRANT OR IMPORTED PERSON.

4. WHAT IS A WRIT OF HABEAS CORPUS?

5. CONGRESS CANNOT SUSPEND THE PEOPLE'S RIGHT OF HABEAS CORPUS EXCEPT

_____ .

6. CONGRESS SHALL PASS NO BILL OF ATTAINDER. WHAT DOES THIS MEAN?

7. DESCRIBE TWO ASPECTS OF A LAW THAT COULD MAKE IT AN EX POST FACTO LAW.

8. DESCRIBE THE PROVISION IN ARTICLE I, SECTION 9, CLAUSE 4 WHICH PROHIBITED A TAX ON INCOMES.

9. CONGRESS CANNOT PLACE A TAX ON _____ FROM ANY STATE.

10. CONGRESS CANNOT GIVE _____ TO THE PORTS OF ONE STATE OVER ANOTHER.

11. NO VESSEL TRAVELING FROM ONE STATE TO ANOTHER SHALL BE FORCED TO ENTER INTO A

PORT FOR THE PURPOSE OF _____ .

12. THE CONSTITUTION REQUIRED ALL MONEY DRAWN FROM THE TREASURY BE DONE BY

13. WHAT IS A TITLE OF NOBILITY? WHAT DOES THE CONSTITUTION SAY ABOUT SUCH TRADITION?

14. WHAT RESTRICTION DOES THE CONSTITUTION INCLUDE CONCERNING THE ACCEPTANCE OF GIFTS BY A GOVERNMENT OFFICIAL?
