Amendments 11-27

THE ERASER ON THE PENCIL: KEEP IT WORKING AND FIX THE PROBLEMS

(SOMETIMES DONE IN HASTE, THEN OOPS!)

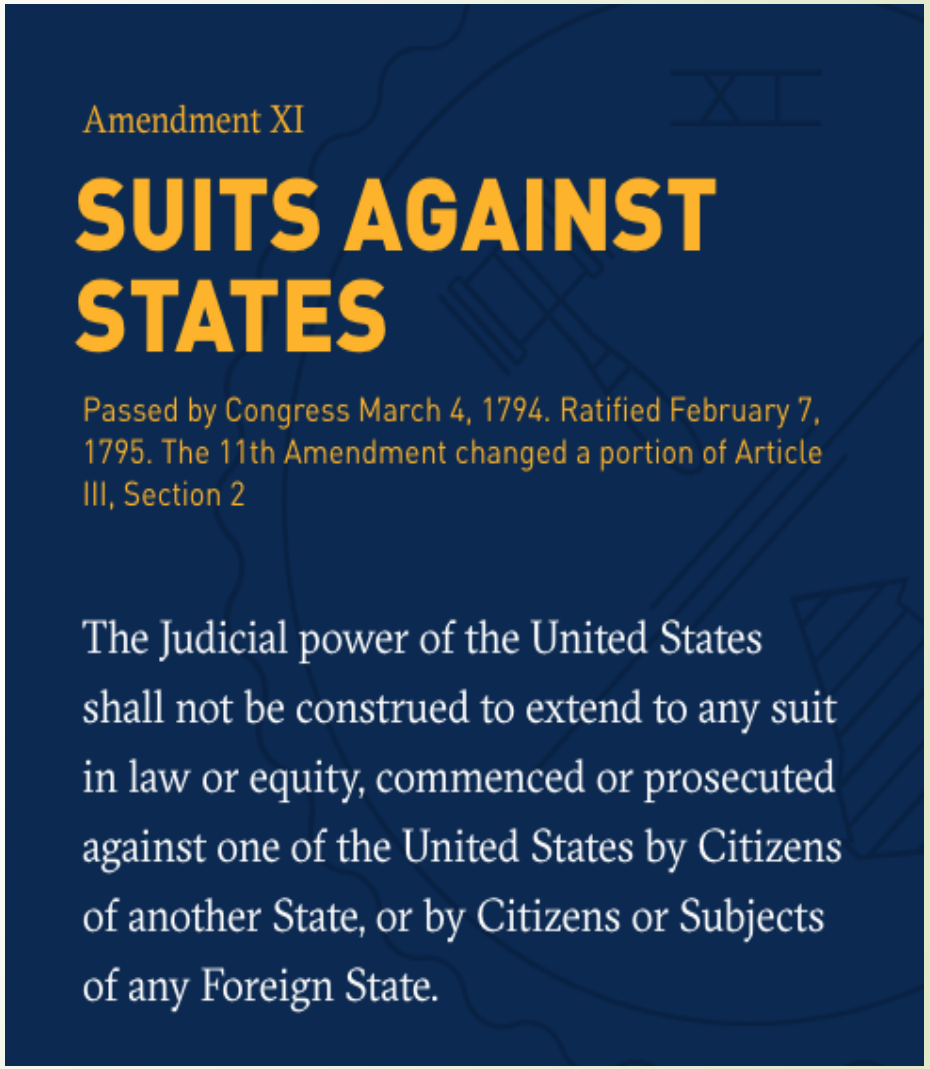
11th Amendment: Suits Against States

Original Text
Article 3, Section 2

SECTION 2

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;--to all Cases affecting Ambassadors, other public Ministers and Consuls;--to all Cases of admiralty and maritime Jurisdiction;--to Controversies to which the United States shall be a Party;-- **to Controversies between two or more States;--between a State and Citizens of another State;--between Citizens of different States;--between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.**

Amendment



Historical Background

- States and citizens were able to sue other states – Article III
- Clause caused controversy in ratification process
  - Federal courts could hear disputes between states and citizens of different states
  - Chisem v. Georgia
    - Lack of payments during the Revolutionary War.
    - Chisem from South Carolina
- Passed: March 4, 1794
- Ratified February 7, 1795
- Said: Federal Courts prohibited from hearing lawsuits against states,
- Citizens are not allowed to sue another state, or their own state, and foreigners cannot sue a state
- Win for states rights

12th Amendment: Election of President and Vice-President

Original text

Article 2, Section 1

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List 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 shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President;

Amendment →

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

12th Amendment: CONT'D

Original text
Article 2, Section 1

and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing 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. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

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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.

Historical Background

- Many concerns about the electoral process
  - What would happen if a tie? House of Reps. Votes – 1 vote per state
- Election of 1796 – President (Adams) and Vice President (Jefferson) are of opposite parties
- Election of 1800 – first incumbent, John Adams, not re-elected
- Beginning of political parties
  - Democratic-Republicans v. Federalists
- Tied election between Thomas Jefferson and "VP" Aaron Burr (THEY MADE A DEAL BUT SOMETHING WENT WRONG)
  - No state representatives (16 votes total) would change vote
    - 36 re-votes
    - Jefferson finally wins with Burr as VP (HAMITON SWAYED THE VOTE: HE HATED BURR)
- Passed: December 9, 1803 AND Ratified: June 15, 1804
  - Each party nominates its 'team' for Pres and VP
  - No majority = House chooses from top 3 (P); Senate chooses from top 2 (VP)

THE 13TH THROUGH THE 15TH AMENDMENTS

- CIVIL WAR IS OVER
- TIME TO RIGHT THE WRONGS
- EXTENSION OF THE EMANCIPATION PROCLAMATION 1863

SPECIFICALLY IDENTIFIED AS RECONSTRUCTION AMENDMENTS

13 – Free

14 – Equal Citizens

15– Vote

BUT SOME FOLKS DIDN'T WANT TO PLAY!

CONSTITUTIONAL MEANING OF THESE AMENDMENTS

- Thirteenth Amendment prohibited slavery
- Fourteenth Amendment barred states from denying “equal protection of the laws,”
- Fifteenth Amendment established that the right to vote could not be denied on the basis of race.
- The constitutional meaning of the Civil War was reflected in these three amendments
  - African-American citizens—many of them former slaves—were entitled to political equality.
  - We are all Americans!

Historical Background

- Reconstruction Amendment
- By the start of the Civil War, 1/5 of America's population was a slave!
- January 1, 1863 – Emancipation Proclamation.
  - Only freed slaves in 11 Confederate states
- Passed: January 31,1865
- Ratified: December 6, 1865
- Said (explicitly): Makes slavery, involuntary servitude, and peonage illegal in the United States
- Said (implied): no service contracts either. (INDENTURED SERVITUDE)

13th Amendment: Abolition of Slavery

Original text

Article 4, Section 2

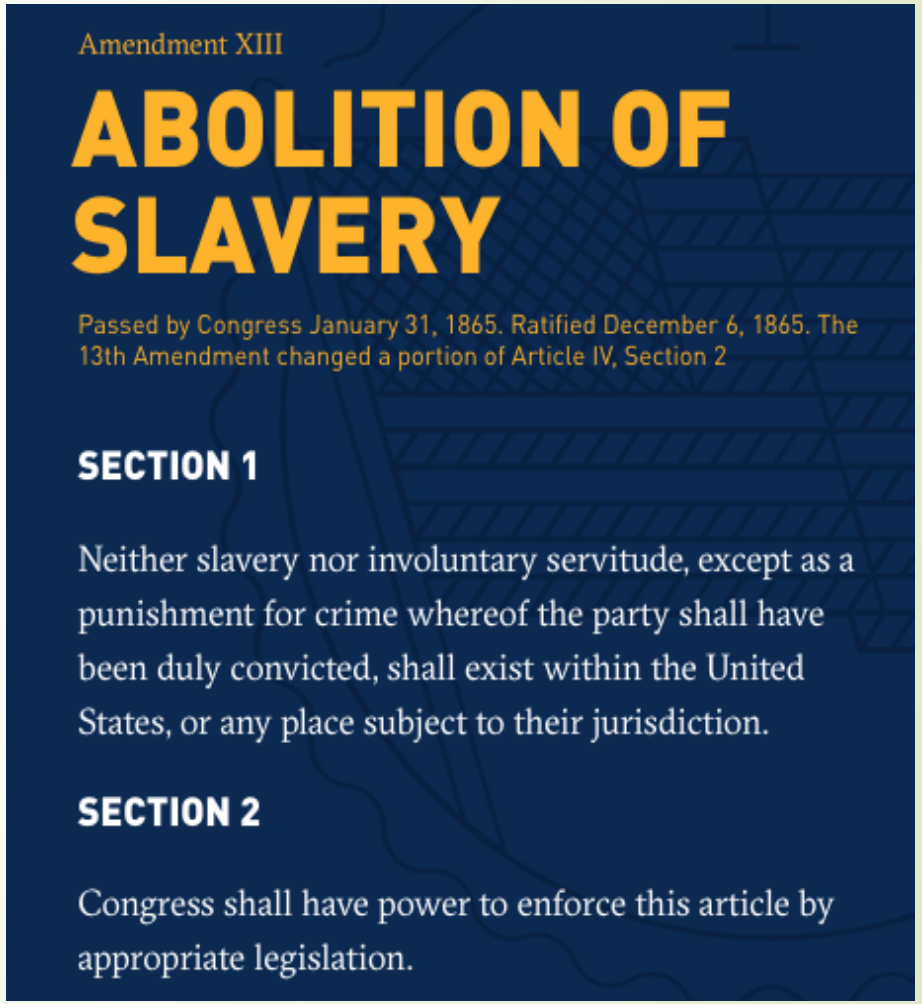
SECTION 2

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

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

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

Amendment



BUT THAT'S DIDN'T FIX THE PROBLEM THE 14TH AMENDMENT

WHAT IS CITIZENSHIP?

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Historical Background

- Reconstruction Amendment
- 1857 *Dred Scott v. Sandford* case – slaves and all descendants have no Constitutional rights, not citizens
- Defined what US citizenship was and outlined the rights of the individuals
- Granted citizenship to people other than white, land owning, men
- Protected the rights of newly freed slaves from the 13th amendment a year prior
- Passed: June 13, 1866
- Ratified: July 9, 1868

14th Amendment Citizenship rights, Equal protection, Apportionment, Civil war debt

Original Text: Article 1, Section 2

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. 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.

Amendment

SECTION 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

14th Amendment Citizenship Rights, Equal Protection, Apportionment, Civil War Debt

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.

14th Amendment: CONT'D

DEBT: WE AREN'T PAYING FOR THE SOUTH'S DEBT OR LOSS OF SLAVES

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.

CONGRESS: FIGURE IT OUT.

SECTION 5

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

15th Amendment Right to Vote

- **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.**

SOUNDS SIMPLE ENOUGH RIGHT?

Why and What does it mean?

- **Nothing in the Constitution expressly guaranteed the right to vote.**
- **When drafting the Constitution,**
  - **Too controversial and divisive.**
  - **States had different voting rules**
    - **Property-holding requirements and how much?**
    - **Women and free black men could vote in some states**
    - **Couldn’t come up with a standard on voting rights so left it out.**
- **Two keys**
  - **One person-one vote (Same number of people in each district within a state).**
  - **Right to get to the ballot box and cast a vote.**

PASSED IN 1870

- BUT!
- it was essentially ignored and circumvented for nearly a century.
- Initially, Blacks could vote and did in large numbers, putting 2000+ into public office (local, state, and federal).
- Beginning in the 1890s, Southern States adopted laws making it hard for African-Americans to vote
  - Demonstrate literacy, or
  - Prove their good character, or
  - Pay certain voting taxes, or
  - Other hurdles
- Lasted until 1965.

THE PROGRESSIVE ERA IN AMERICA

THE PROGRESSIVE ERA IN AMERICA

- The roots of the liberalism lie in the Progressive Era.
- For the Progressives, freedom is redefined as the fulfillment of human capacities, which becomes the primary task of the state.
- To some degree, modern conservatism owes its success to a recovery of and an effort to root itself in the Founders' constitutionalism.

IN SHORT, PROGRESSIVES BELIEVE MAN IS NOT BORN FREE AND DOES NOT GET HIS RIGHTS FROM GOD.

John Dewey, the most thoughtful of the Progressives, wrote that freedom is not "something that individuals have as a ready-made possession." It is "something to be achieved." In this view, freedom is not a gift of God or nature. It is a product of human making, a gift of the state."

(https://www.heritage.org/political-process/report/the-progressive-movement-and-the-transformation-american-politics)

16TH AMENDMENT: INCOME TAX 1913

- BEFORE THIS, CONGRESS COULD NOT TOUCH YOUR INCOME
- GAVE CONGRESS THE POWER TO SET AND COLLECT
  - REGARDLESS OF THE SOURCE
  - REGARDLESS OF POPULATION OF THE STATES
- **"Direct" tax: A state with one-tenth of the national population must bear one-tenth of the total liability.**
- **"Indirect" taxes—there is no apportionment rule.**
  - **"All Duties, Imposts and Excises shall be uniform throughout the United States."**
  - **What's taxed and the tax rates must not vary from state to state.**

17th AMENDMENT: ELECTION OF SENATORS RATIFIED 1913

BAD IDEA

- Removed from state legislatures the power to choose U.S. Senators and gave that power directly to voters in each state.
  - James Madison: State legislatures power provided a "double advantage,"
    - "Favoring a select appointment, gave the State governments such an agency in the formation of the federal government..." *The Federalist* No. 62.
  - George Mason: State legislative selection gave states the power of self-defense against the federal government.
  - Arguments for: The case for direct democracy
    - The problem highlighted was that state legislatures were not filling positions.
    - Would free the Senate from the influence of corrupt state legislatures.
- Oregon System," under which state legislative candidates were required to state on the ballot whether they would abide by the results of a formally non-binding direct election for U.S. Senator.
  - 1908: 28 OF 45 STATES PRACTICED THIS PROCEDURE

18TH AMENDMENT: PROHIBITION

BAD IDEA

SO BAD THAT IT WAS REPEALED (ONLY TIME AN AMENDMENT WAS REPEALED

- prohibited “the manufacture, sale, or transportation of intoxicating liquours”
- Did not ban the consumption, private possession, or production for one’s own consumption.
- A one-year time delay was imposed before it would be operative,
- States were given seven years for its ratification.
- Its ratification was certified on January 16, 1919, and the Amendment took effect on January 16, 1920.

(JUST AS ALL THE SOLDIERS WERE RETURNING FROM WW I!)

BIGGEST WINNER: THE BIRTH OF ORGANIZED CRIME

19TH AMENDMENT: WOMEN'S RIGHT TO VOTE

- Early on, right to vote limited to persons who owned land worth a certain amount of money. People without property had no stake in the community or might be inclined to vote for UNLIMITED spending, since they were not subject to property taxes.
- Women in NJ were allowed to vote until 1807: **MEN DRESSED AS WOMEN TO VOTE TWICE!!**
- Over the years, property requirements relaxed, then tossed out all together.
- Wyoming Territory's constitution was the first to guarantee women the right to vote.
  - Followed by Utah, Colorado, and Idaho.
- Tennessee was the state that put the Amendment over the top
- TRIVIA: The decisive vote was cast by 24-year old Harry Burn, who had intended to vote against, until he received his mother's letter urging him to "be a good boy" and vote for ratification.

IN THE END: **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.**

AMENDMENTS 20-27

CLEAN UP ON AISLE 5! AMENDMENTS TO FIX STUFF DEEMED FIXABLE

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20TH AMENDMENT: PRESIDENTIAL TERM AND SUCCESSION, ASSEMBLY OF CONGRESS

Ratified in 1935

- **Fixed the start dates:**
  - **Members of the Senate and House of Representatives sworn in: January 3 of the year following their election**
  - **President and Vice President sworn into office: January 20.**

THESE SECTIONS HAVE NEVER BEEN USED

- **Decides what happens if the President-Elect dies before taking office or if no one has qualified to become President when a new presidential term begins.**
- **Congress enacts procedures for choosing a President or Vice President in the event that no candidate has received a majority of electoral votes for the office and any of the contenders dies before Congress has chosen among them.**

21st AMENDMENT: REPEAL OF PROHIBITION

RATIFIED DECEMBER 5, 1933

- **Only one that repealed a previous amendment (18TH)**
- **Only amendment which was ratified by state ratifying conventions.**
  - **Let gun-shy legislators with their eyes on re-election out of the process and "off the hook." BECAUSE:**
    - **TEMPERANCE MOVEMENT STILL PRETTY POWERFUL.**
- **PEOPLE SAW THE IDEA AS NOBLE BUT A FAILED EXPERIMENT**
  - **The black market in alcohol quickly grew**
  - **inability or unwillingness of law enforcement agencies at every level to stop the illegal production, sale, and transportation of intoxicating beverages.**
  - **Organized Crime flourished (Al Capone, Bugsy Moran, Machine Gun Kelly, et al).**
  - **"Speakeasys"**
- **Gave broad authority over the regulation of alcoholic beverages to the states.**

22ND AMENDMENT:TWO-TERM LIMIT ON PRESIDENCY

RATIFIED FEBRUARY 27, 1951

- **No person shall be elected to the office of the President more than twice.**
- **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.**
- **THEREFORE, TEN YEARS IS THE MAXIMUM A PRESIDENT CAN SERVE.**

(Ronald Reagan and Barack Obama, to name just two—lamented that they could not run for a third term.)

23RD AMENDMENT: PRESIDENTIAL VOTE FOR D.C.

RATIFIED MARCH 29, 1961

- **Allows American citizens residing in the District of Columbia to vote for presidential electors, who in turn vote in the Electoral College for President and Vice President.**
- **Congress ultimately controls the District.**
- **Congress has exercised that power to extend to the District a measure of autonomy, including the power to elect a Mayor and a Council.**
- **Today, the District is not considered a State for purposes of congressional representation.**

IN CONTRAST: WHAT THEY WANTED

- **The District of Columbia Voting Rights Amendment. PROPOSED:**
  - **District of Columbia to "be treated as though it were a State."**
  - **The proposed amendment would have given the District seats in the House of Representatives and the Senate.**

THIS VERSION DID NOT PASS!

24TH AMENDMENT: ABOLITION OF POLL TAXES

RATIFIED JANUARY 23, 1964

- **"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."**
- **poll tax**
  - **part of a successful effort to undermine the Fifteenth Amendment**
  - **Beginning in Florida in 1889, all the former Confederate States, and a few others, instituted a suite of changes to voting laws as a part of this effort.**
  - **Literacy tests and**
  - **Disqualified convicted felons from voting.**
  - **Poll taxes: Suppress Black voter registration and turnout.**
    - **FEES: Cumulative: voters needed to pay the tax for this election and every previous year they had failed to pay taxes. A $1 tax could quickly balloon to more than $40 in overdue taxes.**
- **Needed an Amendment because they were deemed Constitutional**
  - **1937**
  - **1951**

25TH AMENDMENT: PRESIDENTIAL DISABILITY AND SUCCESSION

RATIFIED: FEBRURY 10, 1967

- **IF PRESIDENT DIES, IS REMOVED FROM OFFICE, RESIGNS: VICE-PRESIDENT BECOMES PRESIDENT**
- **VACANCY IN THE OFFICE OF VICE-PRESIDENT, THE PRESIDENT NOMINATES A REPLACEMENT WHO TAKES OFFICE BASED ON A MAJORITY VOTE OF BOTH HOUSES.**
- **WHENEVER THE PRESIDENT DETERMINES HE IS UNABLE TO CARRY OUT HIS DUTIES, VICE-PRESIDENT BECOMES ACTING PRESIDENT UNTIL PRESIDENT SAYS HE IS READY TO RETURN TO THE OFFICE.**
- **WHENEVER THE MAJORITY OF EXECUTIVE DEPARTMENTS OR CONGRESS BY LAW DEEM THE PRESIDENT UNABLE TO CARRY OUT HIS DUTIES THE VICE-PRESIDENT BECOMES THE ACTING PRESIDENT.**
- **WHEN PRESIDENT TRANSMITS TO ALL THAT HE IS FINE AND READY TO GO, HE RESUMES DUTIES, UNLESS QUESTION HIS DETERMINATION. THEN:**
  - **TRANSMIT WITHIN 4 DAYS A DECLARATION THAT THE PRESIDENT IN UNABLE TO CONTINUE**
  - **CONGRESS HAS 48 HOURS TO ASSEMBLY**
  - **CONGRESS HAS 21 DAYS TO MAKE A FINAL DETERMINATION**
    - **2/3 OF BOTH HOUSES MUST AGREE**
      - **YES: VICE PRESIDENT CONTINUES**
      - **NO: PRESIDENT RESUMES OFFICE.**

PRETTY COMPLICATED

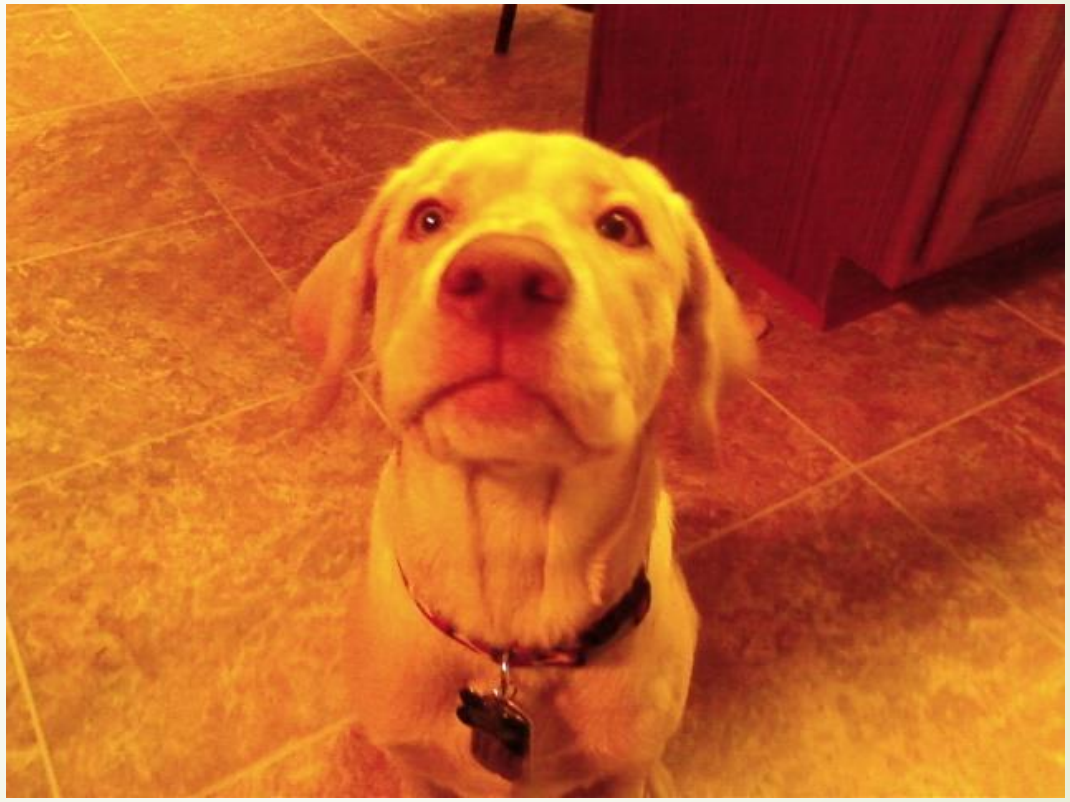
26TH AMENDMENT: RIGHT TO VOTE AT AGE 18

RATIFIED: JULY 1, 1971

- **Last in a series of amendments enacted over more than a century expanding constitutional protection for voting rights.**
- **INTEREST SPURRED DUE TO VIET NAM WAR**
- **The Amendment was ratified in less than four months—the shortest ratification period of any constitutional amendment.**

27TH AMENDMENT: CONGRESSIONAL COMPENSATION

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.
- Benjamin Franklin on the topic of public salaries
  - Against them.
  - Public servants should not get paid'
  - We would get representatives with "bold and the violent" personalities, engaged in "selfish pursuits."
- BUT!! Framers wisely did not want only the wealthy to be able to afford to hold federal offices.
- Madison did not want Congress to have power over its own pay without limitation.
  - Did not want the President to control congressional salaries.
    - Give the President too much power over Congress.
  - Proposed that an election had to happen before any pay raise could take effect.
- 2/3 of both Houses of Congress passed the proposed amendment in 1789.
- 3/4 of the states ratified the amendment as it passed in Congress in 1992.

I KINDA THINK THAT'S QUITE ENOUGH ON THIS, DON'T YOU AGREE?