

# CONSTITUTION ANNOTATED

Analysis and Interpretation of the U.S. Constitution

## Constitutional Authority Statements: Suggested Citations for Commonly Introduced Legislation<sup>1</sup>

Subject Matter of Legislation	Suggested Citation
<b>Appropriations (i.e., legislation that sets aside a sum of money for a specific purpose)</b>	<p><a href="#">Article I, Section 8, clause 1</a> provides Congress with the power to "lay and collect Taxes, Duties, Imposts and Excises" in order to "provide for the ... general Welfare of the United States."</p> <p>* Note: <a href="#">Article I, Section 9, clause 7</a> prohibits money from being drawn from the Treasury absent an appropriation made by law.</p>
<b>Appropriations Related to the Military</b>	<p><a href="#">Article I, Section 8, clause 1</a> provides Congress with the power to "lay and collect Taxes, Duties, Imposts and Excises" in order to "provide for the common Defence ... of the United States."</p> <p><a href="#">Article I, Section 8, clause 12</a> provides Congress with the power to raise and support armies.</p> <p><a href="#">Article I, Section 8, clause 13</a> provides Congress with the power to "provide and maintain" a navy.</p>
<b>Appropriations that Place Conditions on an Expenditure (e.g., a grant to the states)</b>	<p><a href="#">Article I, Section 8, clause 1</a> provides Congress with the power to "lay and collect Taxes, Duties, Imposts and Excises" in order to "provide for the ... general Welfare of the United States."</p> <p><a href="#">Article I, Section 8, clause 18</a> allows Congress to make all laws "which shall be necessary and proper for carrying into execution" any of Congress's enumerated powers, including Congress's powers over appropriations.</p> <p>* Note: According to the Supreme Court, "[i]ncident to Congress's [spending] power, Congress may attach conditions on the receipt of federal funds...." See <a href="#">South Dakota v. Dole, 483 U.S. 203, 207 (1987)</a>.</p>
<b>Awards—Military Awards (e.g., Congressional Medal of Honor)</b>	<p><a href="#">Article I, Section 8, clause 14</a> provides Congress with the power to make rules for the government and regulation of the land and naval forces.</p>
<b>Awards—Non-Military Awards (e.g., Congressional Gold Medal)</b>	<p><a href="#">Article I, Section 8, clause 6</a> empowers Congress to coin money. The U.S. Treasury through the United States Mint has historically exercised its power over coinage to strike national medals.</p>

<sup>1</sup> For more information, read CRS Report R44729, *Constitutional Authority Statements and the Power of Congress: An Overview*, by Andrew Nolan, <https://crsreports.congress.gov/product/pdf/R/R44729>.

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<p><b>Civil Rights Legislation</b></p>	<p>* Note: A variety of constitutional provisions have been utilized with regard to civil rights legislation, depending on the nature of the legislation, including the following:</p> <p><b>Article I, Section 8, clause 3</b> provides Congress with the power to "regulate commerce with foreign nations, and among the several states, and with the Indian tribes." The Supreme Court has held that the "power of Congress to promote interstate commerce also includes the power to regulate ... local activities in both the States of origin and destination, which might have a substantial and harmful effect upon that commerce," including local discriminatory activities that have a "disruptive effect ... on commercial intercourse." See <a href="#">Heart of Atlanta Motel v. United States, 379 U.S. 241, 257-58 (1964)</a>.</p> <p><b>Thirteenth Amendment, Section 2</b> provides Congress the power "to enforce" the substantive guarantees of the Amendment, which centrally prohibits slavery and involuntary servitude, by enacting "appropriate legislation." The Supreme Court has recognized that the Thirteenth Amendment provides Congress with the authority to pass laws for abolishing all "badges or incidents" of slavery or servitude. See <a href="#">Jones v. Alfred H. Mayer Co., 392 U.S. 409, 437-44 (1968)</a>.</p> <p><b>Fourteenth Amendment, Section 5</b> provides Congress the power "to enforce" the substantive guarantees of the amendment, including the Due Process and Equal Protection Clauses, by enacting "appropriate legislation." The Supreme Court has recognized that, under Section 5, Congress may both proscribe unconstitutional conduct, as well as enact legislation that remedies and deters violations of rights guaranteed under the Fourteenth Amendment. See <a href="#">Nev. Dep't of Human Res. v. Hibbs, 538 U.S. 721, 728 (2003)</a>.</p> <p><b>Fifteenth Amendment, Section 2</b> provides Congress the power to enforce the substantive guarantees of the amendment, namely, that the right to vote shall not be denied or abridged on account of race or color, by enacting "appropriate legislation." The Supreme Court has recognized that "Congress has full remedial powers [under the Fifteenth Amendment] to effectuate the constitutional prohibition against racial discrimination in voting." See <a href="#">South Carolina v. Katzenbach, 383 U.S. 301, 326 (1966)</a>.</p>
<p><b>Constitutional Amendment</b></p>	<p><b>Article V</b> authorizes Congress, whenever two-thirds of both houses "deem it necessary," to propose amendments to the Constitution.</p>
<p><b>Courts—Regulation of the Jurisdiction of Federal Courts</b></p>	<p><b>Article I, Section 8, clause 9</b> provides Congress with the power to constitute "Tribunals inferior to the Supreme Court."</p> <p>* Note: <b>Article III, Section 2</b> allows Congress to make "Exceptions" to the Supreme Court's appellate jurisdiction.</p>

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<p><b>Courts—Procedures, Practices, and Rules of Federal Courts</b></p>	<p><a href="#">Article III, Section 1</a> vests the judicial power of the United States in the Supreme Court and any inferior courts Congress establishes.</p> <p><a href="#">Article I, Section 8, clause 18</a> allows Congress to make all laws "which shall be necessary and proper for carrying into execution" any "other" powers vested by the Constitution in the Government of the United States.</p> <p>* Note: According to the Supreme Court, the Necessary and Proper Clause gives Congress the "power to make laws for carrying into execution all the judgments which the judicial department has power to pronounce" (<a href="#">Wayman v. Southard, 10 Wheat. 1, 22 (1825)</a>), and, thereby, Congress has "undoubted power to regulate the practice and procedure of federal courts." See <a href="#">Sibbach v. Wilson &amp; Co., 312 U.S. 1, 9 (1941)</a>.</p>
<p><b>Economic Regulations (e.g., regulations regarding a particular business; regulations pertaining to labor standards)</b></p>	<p><a href="#">Article I, Section 8, clause 3</a> provides Congress with the power to "regulate commerce with foreign nations, and among the several states, and with the Indian tribes."</p> <p>* Note: According to the Supreme Court, the Commerce Clause authorizes Congress to regulate the use of the channels of interstate commerce; the instrumentalities of interstate commerce, or persons or things in interstate commerce; and those activities having a substantial relation to or affecting interstate commerce. See <a href="#">United States v. Lopez, 514 U.S. 549, 558-59 (1995)</a>.</p>
<p><b>Election Regulations</b></p>	<p><a href="#">Article I, Section 4, clause 1</a> allows states to prescribe the "Time, Places and Manner of holding Elections for Senators and Representatives," but allows Congress "at any time" to "make or alter such regulations."</p>
<p><b>Federal Land Regulation (e.g., selling federal lands; creating rules for national parks)</b></p>	<p><a href="#">Article IV, Section 3, clause 2</a> provides Congress with the power to "dispose of and make all needful Rules and Regulations respecting the Territory and other Property belonging to the United States."</p> <p>* Note: The Supreme Court has described this power to be "without limitations," holding that "Congress may constitutionally limit the disposition of the public domain to a manner consistent with its views of public policy." See <a href="#">United States v. San Francisco, 310 U.S. 16, 29 (1940)</a>.</p>
<p><b>Immigration—Naturalization (i.e., granting of citizenship to a foreign-born person)</b></p>	<p><a href="#">Article I, Section 8, clause 4</a> provides Congress with the power to establish a "uniform Rule of Naturalization."</p> <p>* Note: The Supreme Court has recognized that the power to establish a uniform rule of naturalization can, in part, be more broadly viewed to provide Congress power "over the subject of immigration and the status of aliens." See <a href="#">Arizona v. United States, 132 S. Ct. 2492, 2498 (2012)</a>.</p>

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<p><b>Immigration—Outside of Naturalization (e.g., granting of temporary visas to nonimmigrants, regulating the entry and deportation of aliens)</b></p>	<p>* Note: According to the Supreme Court, the formulation of immigration policy is "entrusted exclusively to Congress." See <a href="#">Galvan v. Press, 347 U.S. 522, 531 (1954)</a>; see also <a href="#">Fiallo v. Bell, 430 U.S. 787, 792 (1977)</a> ("This Court has repeatedly emphasized that 'over no conceivable subject is the legislative power of Congress more complete than it is over' the admission of aliens."). Notwithstanding such language, the Constitution does not directly address the sources of federal power to regulate which non-U.S. nationals (aliens) may enter and remain in the United States or to establish the conditions of their continued presence within the country. Several of the enumerated powers in the Constitution, however, have been construed as authorizing such regulations, including the following:</p> <p><a href="#">Article I, Section 8, clause 3</a> provides Congress with the power to "regulate commerce with foreign nations, and among the several states, and with the Indian tribes." The Supreme Court has held that Congress's power to regulate foreign commerce includes the power to regulate the entry of persons into the country. See <a href="#">Henderson v. Mayor of New York, 92 U.S. 259, 270-71 (1876)</a>.</p> <p><a href="#">Article I, Section 8, clauses 11-16</a>, which collectively provide Congress with various authorities related to foreign affairs, have been cited as providing support for congressional regulation of immigration. See <a href="#">Toll v. Moreno, 458 U.S. 1, 10 (1982)</a>.</p> <p>Other cases from the Supreme Court have looked beyond the powers in Article I, Section 8 for support for Congress's power over immigration. See <a href="#">The Chinese Exclusion Case, 130 U.S. 581, 604 (1889)</a> (listing the powers to "declare war, make treaties, suppress insurrection, repel invasion, regulate foreign commerce, secure republican governments to the States, and admit subjects of other nations to citizenship" as authorizing Congress to enact legislation excluding Chinese laborers); <a href="#">Fong Yue Ting v. United States, 149 U.S. 698, 705-09 (1893)</a> (relying on the same sources to affirm Congress's power to deport noncitizens).</p>
<p><b>Internal Rules of the House</b></p>	<p><a href="#">Article I, Section 5, clause 2</a> provides that each house of Congress "may determine the Rules of its Proceedings."</p>
<p><b>Intellectual Property—Patents and Copyright</b></p>	<p><a href="#">Article I, Section 8, clause 8</a> provides Congress with the 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."</p>
<p><b>Military Rules and Regulations (e.g., amending the Uniform Code of Military Justice)</b></p>	<p><a href="#">Article I, Section 8, clause 14</a> provides Congress with the power to make rules for the government and regulation of the land and naval forces.</p>

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<p><b>Post Offices</b> (e.g., naming post offices; creating honorary stamps)</p>	<p><a href="#">Article I, Section 8, clause 7</a> provides Congress with the power to establish post offices and post roads.</p>
<p><b>Taxes, Duties, Imposts, and Excises</b></p>	<p><a href="#">Article I, Section 8, clause 1</a> provides Congress with the power to "lay and collect Taxes, Duties, Imposts and Excises."</p>
<p><b>Taxes (Income)</b></p>	<p><a href="#">Sixteenth Amendment</a> provides Congress the power to "lay and collect taxes on incomes."</p>