UPFRONT’S GUIDE TO

The Constitution

Even some of our leaders could use a refresher on the nation’s founding legal document. Here’s a primer on the most quotable constitutional amendments.

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During a debate before November’s midterm elections, Christine O’Donnell, the Republican candidate for the Senate in Delaware, asked her opponent, Democrat Chris Coons, “Where in the Constitution is the separation of church and state?”

Coons correctly pointed to the First Amendment, which states that “Congress shall make no law respecting an establishment of religion.” Later in the debate, however, Coons (who ended up defeating O’Donnell) also stumbled when he couldn’t name the other four freedoms guaranteed by the First Amendment.

O’Donnell and Coons aren’t alone when it comes to flunking Constitution 101. In 2008, when Vice President Joe Biden was still Senator Biden, he said, incorrectly, that the Vice President may preside over the Senate “only in a time when in fact there’s a tie vote. The Constitution is explicit.”

Actually, the Constitution (in Article I, Section 3) says that the Vice President may preside over the Senate at any time but can vote only to break a tie; as far back as the 1790s, Thomas Jefferson often took the gavel when he was John Adams’s Vice President.

With our leaders setting the bar pretty low, it’s no wonder that so many Americans are also uninformed about constitutional basics. For example, in a recent poll only 6 percent of adults knew that the First Amendment guarantees the right to petition the government.

Since you’re unlikely to memorize all 4,543 words of the Constitution, what are the most important things to remember? It’s the amendments to the Constitution, including the Bill of Rights, that most often make headlines, and directly or indirectly affect our daily lives.

So here’s Upfront’s guide to 10 amendments you really want to be familiar with, along with key Supreme Court cases that have helped define their meaning over the years. Get a handle on these, and you’re a lot less likely to get caught flat-footed in class—or when you decide to run for public office.

First Amendment (1791)

What it says: The government can’t establish a national religion (the “establishment clause”) or prevent citizens from worshipping as they choose; freedom of speech, press, assembly, and the right to petition the government are also guaranteed.

Background: After fleeing the tyranny of England’s King George III and religious persecution in Europe, the Framers wanted explicit protection of basic liberties, and guarantees that the public could challenge the policies of their leaders.

Key cases: Tinker v. Des Moines (1969): The Supreme Court ruled that, within certain limits, students are allowed free expression in schools; Texas v. Johnson (1989): Flag burning is protected expression; New York Times Co. v. United States (1971): In most cases, the government can’t censor the press.

Second Amendment (1791)

What it says: “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.”

Background: The debate over whether “the people” refers to individuals or members of militias lasted 217 years.

Key cases: District of Columbia v. Heller (2008): The Supreme Court ruled for the first time that the Second Amendment applies to individuals, overturning a Washington, D.C., ban on guns in homes; McDonald v. Chicago (2010) applies Heller to the states, not just to Washington, which is under federal jurisdiction.

Fourth Amendment (1791)

What it says: It limits the power of law enforcement to arrest people and search or seize their property without “probable cause.”

Background: This Amendment was a reaction to several cases in England and the Colonies during the 1760s in which the rights of the accused were abused.

Key cases: New Jersey v. T.L.O. (1985): School officials may search a student’s property—including backpacks and lockers—if they have “reasonable suspicion” that a law or school rule has been violated; Board of Education v. Earls (2002): Random drug testing of students involved in extracurricular activities is permitted; Arizona v. Gant (2009):
Twenty-Sixth Amendment: How old do you need to be to vote?

Police may not search a suspect’s car after an arrest without a reasonable expectation that they will find evidence related to the arrest.

Fifth Amendment (1791)
What it says: Criminal defendants have the right not to speak in their own defense ("taking the Fifth"), and they can’t be tried twice for the same offense ("double jeopardy"). They can’t be denied "due process of law"; serious criminal charges must be screened by a grand jury.

Background: The Fifth was a reaction to practices by the British royal court, which often coerced confessions from defendants.

Key case: Miranda v. Arizona (1966): Police must inform criminal suspects at the time of their arrest of what are now known as "Miranda rights": the right to remain silent and to obtain an attorney (from the Sixth Amendment).

Eighth Amendment (1791)
What it says: You’re protected from excessive criminal fines and "cruel and unusual" punishment. Some people believe capital punishment violates the Eighth Amendment.

Background: A similar right is found in the Magna Carta, issued in England in 1215.

Key cases: Roper v. Simmons (2005): The death penalty for juvenile offenders is unconstitutional; Graham v. Florida (2010): Life imprisonment without parole for non-capital crimes is unconstitutional for juvenile offenders.

Tenth Amendment (1791)
What it says: The states have all powers that the Constitution doesn’t specifically reserve for the federal government.

Background: British oppression made the Framers careful to curb federal power.

Key case: Though this amendment has been the subject of no recent cases, the Tea Party political movement has invoked the 10th to challenge federal authority, particularly about the recent health care law.

Nineteenth Amendment (1920)
What it says: Gives women the vote.

Background: The Constitution had no explicit restriction on women’s voting rights, but many states did. Women’s groups had been agitating for suffrage since 1848.

Key case: Minor v. Happersett (1874): The Court rejected the claim of a Missouri woman who argued that the 14th Amendment gives women the right to vote. Citizenship, the Court said, does not guarantee suffrage. The 19th Amendment nullified that decision.

Fourteenth Amendment (1868)
What it says: People born or naturalized in the U.S. are American citizens, and individual states can’t deprive them of their constitutional rights (the “equal protection” clause).

Background: The 14th Amendment voided a clause in the 1857 Dred Scott decision that stated that Africans imported as slaves and their children—slave or free—couldn’t be citizens. Today, some people argue that the Amendment encourages illegal immigrants to have children in the U.S. ("anchor babies") and should be repealed.

Key case: Brown v. Board of Education (1954): The Court overturned Plessy v. Ferguson (1896), ruling that segregation in schools is inherently unequal and therefore unconstitutional.

Fifteenth Amendment (1870)
What it says: Gives African-Americans the right to vote.

Background: The 15th is the last of the "Reconstruction" Amendments (along with 13 and 14), which were meant to enfranchise former slaves after the Civil War.

Key case: Guinn v. United States (1915): Oklahoma’s "grandfather clause," which denied voting rights to those whose ancestors could not vote (thereby excluding former slaves), is unconstitutional.

Twenty-Sixth Amendment (1971)
What it says: Lowers the voting age from 21 to 18.

Background: Young men drafted during the Vietnam War argued that if at 18 you’re old enough to die for your country, you should also be old enough to vote.

Key case: Oregon v. Mitchell (1970): The Justices ruled that Congress’s 1970 decision to lower the voting age from 21 to 18 applied only to federal elections. The 26th Amendment made 18 the voting age for all elections.
UPFRONT'S GUIDE TO THE CONSTITUTION

CRITICAL THINKING
Create a list of rights protected by the U.S. Constitution.
Which of these rights seem to be the most hotly debated? Why are some more contentious than others?
What Amendments do students think most affect them, and why?
How knowledgeable do you think politicians—and ordinary Americans—should be about constitutional rights? Explain.

WRITING PROMPT
Choose a Supreme Court decision mentioned in the article that you feel strongly about, and write a persuasive essay sharing your opinion. Use facts and specific examples to support your point of view.

DEBATE
Should the Fourteenth Amendment be repealed in light of current immigration issues? Defend your position.
What rights does the First Amendment protect? How are they central to the ideals of American democracy?
Which cases mentioned in the article relate to young people? What were the outcomes? Why has age come into play when the courts have weighed constitutional rights?
Which amendment protects the rights of criminal suspects? Why are such protections needed?
If you could propose a new constitutional amendment, what would it be, and why?

DISCUSSION QUESTIONS
What Amendments are directly rooted in British law or in the Framers' objections to the authority of the king?
What Amendments focus on voting rights? Why was the right to vote critical to the groups that sought to be enfranchised?
FAST FACT
Originally, 12 amendments were proposed for the Bill of Rights, and what we now call the First Amendment was listed as number three. But the first two proposed amendments never got ratified.

WEB WATCH
archives.gov/exhibits/charters/constitution.html
Images and transcripts of the U.S. Constitution, as well as background on the Framers, the Bill of Rights, and more, from the National Archives.

A TALE OF TWO INDIAS

CRITICAL THINKING
Millions of Indians are moving out of poverty as India's economy continues to boom, yet almost 70 percent of Indians live on $2 a day or less.
Why might such economic disparity exist in India?
What is the caste system, and how might it affect economic progress in India?

DISCUSSION QUESTIONS
What does it mean for a country to be "emerging" as a global power? In what ways is India emerging? What does it have to offer to the rest of the world?
What has fueled India's economic growth over the past 20 years?
Why has the size of its middle class doubled in that time?
How might the growing gap between the classes in India exacerbate the problems there?
Why have international companies put down roots in India? What has this done for the Indian economy and people?
What period of American history does today's transformation in India most resemble? Explain.

WEB WATCH
http://topics.nytimes.com/india
Articles, multimedia, and more about India's past, present, and future, from NYTimes.com
### UPFRONT'S GUIDE TO THE CONSTITUTION (P. 6)

1. The First Amendment was established to protect basic liberties, as well as to guarantee that
   a. the public could challenge the policies of their elected leaders.
   b. punishments for crimes could not be "cruel or unusual."
   c. everyone born or naturalized in the U.S. would have full citizenship rights.
   d. voting rights would not be restricted.

2. Which Amendment states that criminal defendants cannot be tried twice for the same offense and cannot be denied due process of law?
   a. Second Amendment
   b. Fifth Amendment
   c. Eighth Amendment
   d. Tenth Amendment

3. The Voting Age was lowered from 21 to 18 as a result of public sentiment during
   a. World War I.
   b. World War II.
   c. the Korean War.
   d. the Vietnam War.

4. The Supreme Court overturned *Plessy v. Ferguson* in the *Brown v. Board of Education* case based on the “__________” clause in the Constitution.
   a. separate but equal
   b. equal protection
   c. establishment
   d. double jeopardy

### IN-DEPTH QUESTIONS

1. The U.S. Constitution is considered a "living document." What does that phrase mean, and why is it important?

2. What does the Preamble to the U.S. Constitution say? How does it explain the purpose and spirit of the laws set forth in the Constitution?

3. Which of the Amendments described in the article are the most vital to you, and why?

### THAT'S ADVERTAINMENT . . . (P. 20)

1. According to the article, product placement in TV shows has become more common as
   a. companies try to reach younger audiences.
   b. the economy rebounds from the recession.
   c. people watch more programs on the Internet.
   d. technologies like TiVo and DVRs have made it easier to skip commercials.

2. Concerns have been raised about the possibility of a conflict of interest when product placement is used in ________.
   a. children's programming
   b. video games
   c. news programs
   d. soap operas

3. In the early days of television and radio,
   a. sponsors produced shows, and brand names were used in show titles.
   b. it was more common for famous actors to be featured in ads than it is today.
   c. the federal government prohibited the use of brand names in shows.
   d. commercials didn't exist.

4. Which reality TV show sparked product placement's comeback in the past decade?
   a. *Survivor*
   b. *American Idol*
   c. *The Real World*
   d. *Dancing With The Stars*

5. Revenue from product placement in music videos has doubled since 2000 as
   a. more videos have been produced.
   b. video viewing has migrated to the Web.
   c. music channels have proliferated.
   d. musicians have stopped appearing in traditional commercials.

6. The government agency that monitors TV advertising is the ________.
   a. Federal Trade Commission
   b. Federal Communications Commission
   c. Ad Council
   d. Mass Communications Department

### IN-DEPTH QUESTIONS

1. Is it problematic that television shows and movies sometimes weave entire plots around a product or brand? Why or why not?

2. How much do you pay attention to the commercials that are on television? What grabs your attention about a commercial?

3. Are you more likely to be persuaded by a product placement within a show or movie than by a traditional commercial? Explain.
A TALE OF TWO INDIAS

1. This social class in India is rapidly growing as the nation's economy continues to soar.
   What is the middle class?

2. The Indian subcontinent was partitioned in 1947 into India and this country.
   What is Pakistan?

3. Almost 70 percent of Indians live on less than this daily.
   What is $2 a day?

4. This social class system dates back to the ancient origins of Hinduism.
   What is the caste system?

5. When international companies set up factories and offices in India to take advantage of low wages there, they are doing this.
   What is outsourcing?

THE FREEDOM RIDERS

1. The Freedom Riders sought to test compliance with federal court rulings that outlawed segregation in these places.
   What were interstate bus and rail terminals?

2. This civil rights group sponsored the Freedom Rides.
   What is CORE (the Congress of Racial Equality)?

3. He was President when the Freedom Rides took place.
   Who was John F. Kennedy?

4. Congress passed these civil rights laws a few years after the Freedom Rides.
   What are the Civil Rights Act and the Voting Rights Act?

5. The Freedom Rides took place during this year.
   When was 1961?