

Limits on Congress and the States

(See Article I, Sections 9, 10)

We saw in the last lesson what powers the Constitution gave the Congress. Now we are going to look at what the Constitution told the Congress it could *not* do.

First, the Constitution told the Congress it could not make any laws outlawing the slave trade until 1808. This clause deals with the rivalry between the northern and southern states. As you will study, this rivalry erupts into the Civil War in 1861.

The second limitation deals with the legal term known as *habeas corpus*. Habeas corpus literally means “you shall have the body.” This right of habeas corpus allows a person to be seen and heard in a courtroom by a judge. If you are to be found guilty or not guilty, you have the right to appear in court. The government can not take that right away except in cases of rebellion or invasion.

The Constitution outlawed *bills of attainder*. A bill of attainder is a law passed by the government that convicts a person of a crime and punishes them without a trial.

Another limitation set by the Constitution is that Congress cannot pass *ex post facto* laws. An *ex post facto*

law punishes people for a crime that was not a crime when they did it. For example, Mr. Z was smoking a cigarette on his lawn on Monday. On Tuesday, Congress passed a law forbidding smoking in the United States. Wednesday, the police came and arrested Mr. Z for smoking on Monday. When Mr. Z smoked on Monday, it was not a crime. Under the *ex post facto* clause of the Constitution, punishment of Mr. Z is forbidden.

Other limits on Congress are that it cannot tax products from a state, it cannot give preference to any state’s seaport, government money can only be spent by passing a law, and finally, Congress cannot issue titles of nobility. That means the Senate or House cannot make people knights, lords, or duchesses.

The Constitution also puts certain limits on the states. First, they cannot make treaties with other countries. Secondly, they cannot coin their own money. Finally, they cannot do the items mentioned in the above three paragraphs.

The powers of government can be put into three categories: *delegated*, *concurrent*, and *reserved* powers. Delegated powers are powers that are given to the national government in Washington, D.C., such as the power to declare war. Concurrent powers are powers that are shared between the national and state governments, such as the power to tax. Finally, reserved powers are powers that only the states have, such as the power to create a school system. It is important to keep these different powers in mind as we discuss the remainder of the Constitution.



Prior to the Constitution, people were often arrested and jailed without being charged or having a trial.

THE LEGISLATIVE BRANCH

Limits on Congress and the States
≈ Challenges ≈

1. What does "habeas corpus" mean, literally? _____

2. Why does the Constitution prevent Congress from taking away our right of habeas corpus?

3. What is a bill of attainder? _____

4. What is an ex post facto law? Give an example. _____

5. What is one other limit placed on the Congress? _____

6. What are two additional limitations placed on the states by the Constitution?

a) _____

b) _____

7. Explain these three powers:

Delegated: _____

Concurrent: _____

Reserved: _____