# LESSON

Social Education 71(2), pp 82–86


# The U.S. Constitution: Rules of the Game

## Description

The students examine key economic clauses in the U.S. Constitution. They read about contemporary examples where the application of these constitutional provisions would have important consequences.

## Mystery

Many nations have adopted written constitutions but have failed nonetheless to grow economically. How is it that the U.S. Constitution became an effective force in promoting economic growth within a market system?

## Economic History

From May until September of 1787, 55 delegates to the Constitutional Convention met in Philadelphia for "the sole and express purpose of revising the Articles of Confederation." Instead, they decided to write a new Constitution. The Constitution they wrote embodied important ideals of economic freedom, as envisioned by Adam Smith in *The Wealth of Nations*, and created the possibility for the United States to emerge as a strong, dynamic market economy.

The Constitution established the rules within which the U.S. economic system would develop. Rules determine the incentives that influence people's economic behavior. By establishing rules that enforce contracts, provide for a financially responsible central government, protect private property rights and encourage trade and innovation, the Constitution created an environment in which a market economy could develop and flourish.

## Concepts

- Money
- Incentives
- Innovation
- Private property
- Taxation
- Trade

## Objectives

Students will:

1. Identify sections of the U.S. Constitution that fostered the development of a market economy.

2. Analyze the relationship between productive behavior and provisions in the Constitution that protect rights to private property and freedom of contract.

## Content Standards

*Economics*

- There is an economic role for government to play in a market economy whenever the benefits of a government policy outweigh its costs. Governments often provide for national defense, address environmental concerns, define and protect property rights, and attempt to make markets more competitive. Most government policies also redistribute income. (NCEE Content Standard 16)

*History*

- Students should acquire historical understanding of the institutions and practices of government created during the Revolution and how they were revised between 1787 and 1815 to create the foundations of the American political system based on the U.S. Constitution and the Bill of Rights. (Era 3, Standard 3, National Standards for History)

## Time Required

60 minutes

## Materials

- One copy for each student of Activity 1.
- You may wish to have students refer to textbook copies of the U.S. Constitution.

## Procedure

1. Tell the students that the purpose of this lesson is to examine the U.S. Constitution. They will use economic reasoning to understand how the Constitution created an environment that fostered the development of a market economy.

2. Remind the class that in 1787 it was not at all clear how the United States would develop economically. Large problems existed during the time of the Articles of Confederation, including unpaid war debts, the inability of the Continental government to levy and collect taxes and fears of tariff "wars" between states. Everybody knows that the United States eventually developed a strong economy, but it did not necessarily have to turn out that way. Many nations that have adopted written constitutions have nonetheless failed to

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grow economically. What is it about the U.S. Constitution that fostered the development of a market economy?

3. Explain that the economic growth of the United States reflects certain general rules set forth in the U.S. Constitution. These rules create incentives that reward some kinds of behavior and discourage others.

4. Distribute Activity 1. Discuss the directions and the opening paragraphs with the whole class. You may wish to have the students refer to textbook copies of the Constitution.

5. Divide the class into small groups. Ask each group to examine one or two elements of the Constitution discussed in Activity 1. They should read the contemporary examples and predict the likely outcomes in these cases, imagining that the relevant clauses of the Constitution had not been adopted.

6. Ask each group to report to the class.

A. ***Contract clause.*** *(If apartment renters could "walk away" from leases they had signed, many landlords would refuse to rent their property. They would have little incentive to do so. Instead, they would put their property to other uses. The amount of housing available would decline almost overnight. Landlords still willing to rent would charge higher rents and impose stricter income limits on tenants before renting. Poor people would have even more trouble than they otherwise do finding proper housing.)*

B. ***Commerce clause.*** *(If Illinois placed a tax on Wisconsin cheese, cheese would become more expensive to people in Illinois, since the costs created by the tax would be passed along to Illinois consumers in the form of higher prices. Illinois would need to set up a "Bureau of Cheese Police" to collect the tax. Illinois consumers would buy less cheese, and dairy farming in Wisconsin would be hurt. Illinois dairy*

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## Economic Clauses in the Constitution (Excerpts)

### Article 1, Section 8

The Congress shall have Power

To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;....

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;....

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;....

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;....

### Article 1, Section 10

No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility....

### Fifth Amendment

...nor shall any person...be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Handout

# Activity 1

## The Constitution: Rules for the Economy

Directions: Study the following information. Answer the questions that follow the explanation of each item in the section titled **Some Particulars**.

### Economic Freedom and the Founders

The founders were influenced by the writing of Adam Smith, author of *The Wealth of Nations* (1776). Within a few years of its publication, *The Wealth of Nations* was being studied in universities across Europe and in the New World. Thomas Jefferson, for example, regarded it as the best book available on economics. Today, *The Wealth of Nations* is regarded as the foundation of modern economics.

In *The Wealth of Nations*, Smith was critical of the mercantile system that dominated England and Europe at the time. This was a system that called for government to be deeply involved in the economy by providing subsidies, monopolies and bounties, all aimed at steering economic activity in directions determined by the government. Smith argued instead that economic activity should be governed in private markets by individuals engaged in voluntary trade.

The ideals of economic freedom expressed by Smith appealed to the writers of the U.S. Constitution. The Constitution they wrote is primarily a political document, but it includes a set of rules that have a strong bearing on economic activity. The long-term consequence of these rules has been to reward people for engaging in productive behavior. That consequence in turn has fostered economic growth and prosperity. Within the conditions and rules established by the Constitution, the United States has developed a strong market economy.

### Some Particulars

***The contract clause***. Article 1, Section 10 of the U.S. Constitution states that *"no state shall…pass any…law impairing the obligation of contracts." This provision protects the enforcement of contracts.* Contracts must be enforceable so that property can be exchanged. Without freedom of contract and enforcement of contracts by the courts, there would be little stability in financial arrangements. Uncertainty would discourage people from getting involved in economic life.

**Question A.** Use economic reasoning to predict what would happen if apartment renters today did not have to hold to the provisions of the lease agreements they signed.

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***The commerce clause.*** Article 1, Section 8 of the U.S. Constitution states that Congress shall have the power *"to regulate commerce with foreign nations, and among the several states, and with Indian tribes."* This clause prevents states from doing their own regulating of interstate commerce. If individual states were allowed to impose tariffs on goods from other states, trade between states and specialization would be discouraged.

**Question B.** The Illinois state legislature, grown weary of the unearned and boastful pride of Wisconsin "cheeseheads," passes a law placing a 10 percent tax on all cheese "imported" from Wisconsin. Use economic reasoning to predict what would happen if Illinois could impose such a tax.

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***The Fifth Amendment.*** The Fifth Amendment to the U.S. Constitution states that no person shall be *"deprived of life, liberty, or property without due process of law."* It also states that the government may not take private property for public uses without paying *"just compensation"* to property owners. In other words, government may not arbitrarily take the property of individuals. For example, it may not nationalize businesses or farms or take possession of homes without following legal procedures and paying compensation. Knowing this, property owners may use their property confidently, as they see fit (so long as they violate no laws), without fear that a disapproving government might confiscate it. In places where property owners have reason to fear arbitrary seizures of property, the economy suffers from a sense of uncertainty and instability. People under such circumstances

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are reluctant to work or open businesses for fear that they might lose their investment.

**Question C.** Under the leadership of Josef Stalin, the Communist Party of the Soviet Union took possession of the land of millions of peasants, forcing 25 million peasant families into collectives (250,000 state-run farms) by 1934. Whole rural communities resisted this coercion. Government forces suppressed the resistance brutally, killing millions. Agricultural production plummeted. In the famine that ensued, Stalin himself estimated that 10 million peasants died. Before 1914, Russia had been an important producer of agricultural products. By 1991, however, Soviet agricultural productivity was less than one-third that of the United States. What happened? Use economic reasoning to explain how this deep slump in agricultural productivity might be related to the power of the former Soviet government to take property from its citizens.

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***The taxation clause.*** Article 1, Section 8 of the U.S. Constitution states that Congress shall have the power *"to lay and collect taxes."* This power enables the federal government to use tax revenue to pay for public goods—for example, providing for national defense and building roads, bridges and canals.

**Question D.** The United States has often run budget deficits. A deficit means that the government has spent more for its programs than it has received in revenue. The government finances its deficits by selling bonds and using the money from the sales to pay for services it provides despite the shortfall in tax revenue. Government bonds represent loans; people who buy bonds lend money to the government. These loans must eventually be repaid with interest. What might happen to confidence in U.S. bonds if the federal government did not have the power to tax?

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***The coinage clause.*** Article 1, Section 8 of the U.S. Constitution states that Congress shall *"coin money, and regulate the value thereof."* Imagine the confusion in running a business or buying goods and services if each of the 50 states had its own currency. Imagine the difficulty of shopping in other states. Imagine the difficulty for investors of comparing offers of stocks and bonds from various states. This multiplicity of currencies would add greatly to the costs of doing business and investing in the economy.

**Question E.** The 25 nations of the European Union established a common currency, the euro, in 2002. The euro replaced the francs, schillings, deutsche marks and other currencies that member countries had used previously. Explain how the establishment of a common currency might help to stimulate economic growth in Europe.

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***The copyright clause.*** Article 1, Section 8 of the U.S. Constitution states that Congress shall secure *"for limited times to authors and inventors the exclusive right to their respective writings and discoveries."* This clause encourages innovation by allowing authors and inventors to maintain control over their products and to benefit from earnings their products generate. Winning a patent for an idea offers an incentive for people to invest time, imagination and resources in the task of inventing goods that might be of value to others. Patents and copyrights apply not only to material goods (a new high-mileage automobile engine, say) but also to creative or intellectual works including poetry, films, music, computer programs and other advances in science and technology.

**Question F.** Imagine that the work of musicians could be acquired electronically without compensation to the artists. Explain how the prospect of not being able to copyright songs, and enforce copyrights, would influence the production of musicians.

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*farmers would be protected from competition from Wisconsin dairy farmers. Tax revenue from the cheese tax would go into Illinois state coffers. Wisconsin legislators would probably retaliate against Illinois by placing a tax on all Illinois vacationers coming to use lake resorts in northern Wisconsin. The "Bureau of Vacation Police" would be set up in Wisconsin to collect the tax. Wisconsin vacations would become more expensive for people from Illinois, who would thus be encouraged to vacation elsewhere. Tax revenue from the vacation tax would go into Wisconsin state coffers. Because of reduced trade between the states, the standard of living would decline for people in both states.)*

**C.** ***Fifth Amendment.*** *(When individuals no longer owned the farmland, the incentives encouraging them to be productive declined. There was little to be gained by making efforts to look after something that you did not own. Less care was taken of the land or the crops. Large amounts of production were lost through carelessness and poor planning, all due to a lack of ownership as an incentive.)*

**D.** ***Taxation clause.*** *(A government without the ability to tax has few ways to repay its financial obligations. To default on bond payments would destroy confidence among bond holders and just about everyone else in the American economy. It would severely reduce the ability of the U.S. government to obtain credit from individuals, financial institutions and other nations at reasonable rates of interest.)*

**E.** ***Coinage clause.*** *(The introduction of the euro has made it easier for members of the European Union to conduct business. Imagine the difficulties facing investors in European businesses prior to 2002, when they were presented with a puzzling array of 25 different currencies, each with its own exchange rate relative to the others. The creation of a single currency made it easier for businesses and consumers to conduct trade. The euro also enables investors to more easily compare offers on stocks and bonds and other securities originating in many countries, from Norway to Spain. This incentive provides encouragement to invest in Europe.)*

**F.** ***Copyright clause****. (Patents and copyrights affirm the property rights of people who produce new goods and services. These legal devices protect intellectual property or works of invention such as music, manuscripts and designs. Musicians would have little incentive to record new music if they could not benefit from their recordings. They might turn to other ways of making money, perhaps by relying on live performances. Patents and copyrights create incentives that encourage and reward productivity.)*

## Closure

Call on students to explain briefly the significance of clauses in the Constitution that provide a legal environment for a market economy:

- Contract clause
- Commerce clause
- Fifth Amendment
- Taxation clause
- Coinage clause
- Copyright clause

## Assessment

*Multiple Choice*

1. Which part of the U.S. Constitution prevents the government from illegally taking private property?
   **A.** **The Fifth Amendment**
   **B.** The contract clause
   **C.** The commerce clause
   **D.** The copyright clause

2. Which part of the U.S. Constitution protects the property rights of inventors and authors?
   **A.** The Fifth Amendment
   **B.** The contract clause
   **C.** The treaty clause
   **D.** **The copyright clause**

## Essay Questions

1. **Use economic reasoning to explain why the U.S. Constitution is regarded as an economic success.**

*(**Possible answer**: The U.S. Constitution established the rules for the U.S. economic system. Rules determine the incentives that influence people's choices. The Constitution encourages productive behavior by protecting private property rights and enforcing contracts. The copyright clause affirms the property rights of people who create new ideas and products. The commerce clause prevents states from taxing each other's goods.)*

2. **Some people know the Fifth Amendment only as a provision intended to protect the rights of people accused of committing crimes. But it is important for other reasons as well. How does the Fifth Amendment protect economic freedom?**

*(**Possible answer**: The Fifth Amendment protects the rights of people who own property. It states that the government may not deprive people of "life, liberty, or property, without due process of law." It states further that the government may not take private property for public uses without paying "just compensation." Given these guarantees, property owners may decide for themselves what they will do with their property, so long as they violate no laws. A farmer, for example, can choose to grow one crop or another on his fields, or grow no crops and run a bed and breakfast business instead, without fear that the government will disapprove of his choices and confiscate his land.)*