

Thomas Jefferson to James Madison

6 Sept. 1789 *Papers 15:392--97*

I sit down to write to you without knowing by what occasion I shall send my letter. I do it because a subject comes into my head which I would wish to develop a little more than is practicable in the hurry of the moment of making up general dispatches.

The question whether one generation of men has a right to bind another, seems never to have been started either on this or our side of the water. Yet it is a question of such consequences as not only to merit decision, but place also, among the fundamental principles of every government. The course of reflection in which we are immersed here on the elementary principles of society has presented this question to my mind; and that no such obligation can be so transmitted I think very capable of proof.--I set out on this ground, which I suppose to be self evident, "*that the earth belongs in usufruct to the living*": that the dead have neither powers nor rights over it. The portion occupied by an individual ceases to be his when himself ceases to be, and reverts to the society. If the society has formed no rules for the appropriation of it's lands in severality, it will be taken by the first occupants. These will generally be the wife and children of the decedent. If they have formed rules of appropriation, those rules may give it to the wife and children, or to some one of them, or to the legatee of the deceased. So they may give it to his creditor. But the child, the legatee, or creditor takes it, not by any natural right, but by a law of the society of which they are members, and to which they are subject. Then no man can, by *natural right*, oblige the lands he occupied, or the persons who succeed him in that occupation, to the payment of debts contracted by him. For if he could, he might, during his own life, eat up the usufruct of the lands for several generations to come, and then the lands would belong to the dead, and not to the living, which would be the reverse of our principle.

What is true of every member of the society individually, is true of them all collectively, since the rights of the whole can be no more than the sum of the rights of the individuals.-
-To keep our ideas clear when applying them to a multitude, let us suppose a whole generation of men to be born on the same day, to attain mature age on the same day, and to die on the same day, leaving a succeeding generation in the moment of attaining their mature age all together. Let the ripe age be supposed of 21. years, and their period of life 34. years more, that being the average term given by the bills of mortality to persons who have already attained 21. years of age. Each successive generation would, in this way, come on, and go off the stage at a fixed moment, as individuals do now. Then I say the earth belongs to each of these generations, during it's course, fully, and in their own right. The 2d. generation receives it clear of the debts and incumbrances of the 1st. the 3d of the 2d. and so on. For if the 1st. could charge it with a debt, then the earth would belong to the dead and not the living generation. Then no generation can contract debts greater than may be paid during the course of it's own existence. At 21. years of age they may bind themselves and their lands for 34. years to come: at 22. for 33: at 23. for 32. and at 54. for one year only; because these are the terms of life which remain to them at those respective epochs.--But a material difference must be noted between the succession of an

individual, and that of a whole generation. Individuals are parts only of a society, subject to the laws of the whole. These laws may appropriate the portion of land occupied by a decedent to his creditor rather than to any other, or to his child on condition he satisfies the creditor. But when a whole generation, that is, the whole society dies, as in the case we have supposed, and another generation or society succeeds, this forms a whole, and there is no superior who can give their territory to a third society, who may have lent money to their predecessors beyond their faculties of paying.

What is true of a generation all arriving to self-government on the same day, and dying all on the same day, is true of those in a constant course of decay and renewal, with this only difference. A generation coming in and going out entire, as in the first case, would have a right in the 1st. year of their self-dominion to contract a debt for 33. years, in the 10th. for 24. in the 20th. for 14. in the 30th. for 4. whereas generations, changing daily by daily deaths and births, have one constant term, beginning at the date of their contract, and ending when a majority of those of full age at that date shall be dead. The length of that term may be estimated from the tables of mortality, corrected by the circumstances of climate, occupation &c. peculiar to the country of the contractors. Take, for instance, the table of M. de Buffon wherein he states 23,994 deaths, and the ages at which they happened. Suppose a society in which 23,994 persons are born every year, and live to the ages stated in this table. The conditions of that society will be as follows. 1st. It will consist constantly of 617,703. persons of all ages. 21y. Of those living at any one instant of time, one half will be dead in 24. years 8. months. 3dly. 1[8],675 will arrive every year at the age of 21. years complete. 41y. It will constantly have 348,417 persons of all ages above 21. years. 51y. And the half of those of 21. years and upwards living at any one instant of time will be dead in 18. years 8. months, or say 19. years as the nearest integral number. Then 19. years is the term beyond which neither the representatives of a nation, nor even the whole nation itself assembled, can validly extend a debt.

To render this conclusion palpable by example, suppose that Louis XIV. and XV. had contracted debts in the name of the French nation to the amount of 10,000 millions of livres, and that the whole had been contracted in Genoa. The interest of this sum would be 500. millions, which is said to be the whole rent roll or nett proceeds of the territory of France. Must the present generation of men have retired from the territory in which nature produced them, and ceded it to the Genoese creditors? No. They have the same rights over the soil on which they were produced, as the preceding generations had. They derive these rights not from their predecessors, but from nature. They then and their soil are by nature clear of the debts of their predecessors.

Again suppose Louis XV. and his cotemporary generation had said to the money-lenders of Genoa, give us money that we may eat, drink, and be merry in our day; and on condition you will demand no interest till the end of 19. years you shall then for ever after receive an annual interest of 125/8 per cent. The money is lent on these conditions, is divided among the living, eaten, drank, and squandered. Would the present generation be obliged to apply the produce of the earth and of their labour to replace their dissipations? Not at all.

I suppose that the received opinion, that the public debts of one generation devolve on the next, has been suggested by our seeing habitually in private life that he who succeeds to lands is required to pay the debts of his ancestor or testator: without considering that this requisition is municipal only, not moral; flowing from the will of the society, which has found it convenient to appropriate lands, become vacant by the death of their occupant, on the condition of a payment of his debts: but that between society and society, or generation and generation, there is no municipal obligation, no umpire but the law of nature. We seem not to have perceived that, by the law of nature, one generation is to another as one independent nation to another.

The interest of the national debt of France being in fact but a two thousandth part of it's rent roll, the payment of it is practicable enough: and so becomes a question merely of honor, or of expediency. But with respect to future debts, would it not be wise and just for that nation to declare, in the constitution they are forming, that neither the legislature, nor the nation itself, can validly contract more debt than they may pay within their own age, or within the term of 19. years? And that all future contracts will be deemed void as to what shall remain unpaid at the end of 19. years from their date? This would put the lenders, and the borrowers also, on their guard. By reducing too the faculty of borrowing within it's natural limits, it would bridle the spirit of war, to which too free a course has been procured by the inattention of money-lenders to this law of nature, that succeeding generations are not responsible for the preceding.

On similar ground it may be proved that no society can make a perpetual constitution, or even a perpetual law. The earth belongs always to the living generation. They may manage it then, and what proceeds from it, as they please, during their usufruct. They are masters too of their own persons, and consequently may govern them as they please. But persons and property make the sum of the objects of government. The constitution and the laws of their predecessors extinguished then in their natural course with those who gave them being. This could preserve that being till it ceased to be itself, and no longer. Every constitution then, and every law, naturally expires at the end of 19 years. If it be enforced longer, it is an act of force, and not of right.--It may be said that the succeeding generation exercising in fact the power of repeal, this leaves them as free as if the constitution or law has been expressly limited to 19 years only. In the first place, this objection admits the right, in proposing an equivalent. But the power of repeal is not an equivalent. It might be indeed if every form of government were so perfectly contrived that the will of the majority could always be obtained fairly and without impediment. But this is true of no form. The people cannot assemble themselves. Their representation is unequal and vicious. Various checks are opposed to every legislative proposition. Factions get possession of the public councils. Bribery corrupts them. Personal interests lead them astray from the general interests of their constituents: and other impediments arise so as to prove to every practical man that a law of limited duration is much more manageable than one which needs a repeal.

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THE FOUNDERS' CONSTITUTION



2

Popular Basis of Political Authority

[Volume 1, Page 70]

CHAPTER 2 | Document 24**James Madison to Thomas Jefferson**

4 Feb. 1790 *Papers 13:18--21*

Your favor of the 9th. of Jany. inclosing one of Sepr. last did not get to hand till a few days ago. The idea which the latter evolves is a great one, and suggests many interesting reflections to legislators; particularly when contracting and providing for public debts. Whether it can be received in the extent your reasonings give it, is a question which I ought to turn more in my thoughts than I have yet been able to do, before I should be justified in making up a full opinion on it. My first thoughts though coinciding with many of yours, lead me to view the doctrine as not in *all* respects compatible with the course of human affairs. I will endeavor to sketch the grounds of my skepticism.

"As the earth belongs to the living, not to the dead, a living generation can bind itself only: In every society the will of the majority binds the whole: According to the laws of mortality, a majority of those ripe at any moment for the exercise of their will do not live beyond nineteen years: To that term then is limited the validity of *every* act of the Society: Nor within that limitation, can any declaration of the public will be valid which is not *express*."

This I understand to be the outline of the argument.

The Acts of a political Society may be divided into three classes.

1. The fundamental Constitution of the Government.
2. Laws involving stipulations which render them irrevocable at the will of the Legislature
3. Laws involving no such irrevocable quality.

However applicable in Theory the doctrine may be to a Constitution, in [*sic*] seems liable in practice to some very powerful objections. Would not a Government so often revised become too mutable to retain those prejudices in its favor which antiquity inspires, and which are perhaps a salutary aid to the most rational Government in the most enlightened age? Would not such a periodical revision engender pernicious factions that might not otherwise come into existence? Would not, in fine, a Government depending for its existence beyond a fixed date, on some positive and authentic intervention of the Society itself, be too subject to the casualty and consequences of an actual interregnum?

In the 2d. class, exceptions at least to the doctrine seem to be requisite both in Theory and practice.

If the earth be the gift of nature to the living their title can extend to the earth in its natural State only. The *improvements* made by the dead form a charge against the living who take the benefit of them. This charge can no otherwise be satisfied than by executing the will of the dead accompanying the improvements.

Debts may be incurred for purposes which interest the unborn, as well as the living: such are debts for repelling a conquest, the evils of which descend through many generations. Debts may even be incurred principally for the benefit of posterity: such perhaps is the present debt of the U. States, which far exceeds any burdens which the present generation could well apprehend for itself. The term of 19 years might not be sufficient for discharging the debts in either of these cases.

There seems then to be a foundation in the nature of things, in the relation which one generation bears to another, for the *descent* of obligations from one to another. Equity requires it. Mutual good is promoted by it. All that is indispensable in adjusting the account between the dead & the living is to see that the debits against the latter do not exceed the advances made by the former. Few of the incumbrances entailed on Nations would bear a liquidation even on this principle.

The objections to the doctrine as applied to the 3d. class of acts may perhaps be merely practical. But in that view they appear to be of great force.

Unless such laws should be kept in force by new acts regularly anticipating the end of the term, all the rights depending on positive laws, that is, most of the rights of property would become absolutely defunct; and the most violent struggles be generated between those interested in reviving and those interested in new-modelling the former State of property. Nor would events of this kind be improbable. The obstacles to the passage of laws which render a power to repeal inferior to an opportunity of rejecting, as a security agst. oppression, would here render an opportunity of rejecting, an insecure provision agst. anarchy. Add, that the possibility of an event so hazardous to [Volume 1, Page 71] the rights of property could not fail to depreciate its value; that the approach of the crisis would

increase this effect; that the frequent return of periods superseding all the obligations depending on antecedent laws & usages, must by weak[en]ing the reverence for those obligations, co-operate with motives to licentiousness already too powerful; and that the uncertainty incident to such a state of things would on one side discourage the steady exertions of industry produced by permanent laws, and on the other, give a disproportionate advantage to the more, over the less, sagacious and interprizing part of the Society.

I find no relief from these consequences, but in the received doctrine that a tacit assent may be given to established Constitutions and laws, and that this assent may be inferred, where no positive dissent appears. It seems less impracticable to remedy, by wise plans of Government, the dangerous operation of this doctrine, than to find a remedy for the difficulties inseparable from the other.

May it not be questioned whether it be possible to exclude wholly the idea of tacit assent, without subverting the foundation of civil Society? On what principle does the voice of the majority bind the minority? It does not result I conceive from the law of nature, but from compact founded on conveniency. A greater proportion might be required by the fundamental constitution of a Society, if it were judged eligible. Prior then to the establishment of this principle, *unanimity* was necessary; and strict Theory at all times presupposes the assent of every member to the establishment of the rule itself. If this assent can not be given tacitly, or be not implied where no positive evidence forbids, persons born in Society would not on attaining ripe age be bound by acts of the Majority; and either a *unanimous* repetition of every law would be necessary on the accession of new members, or an express assent must be obtained from these to the rule by which the voice of the Majority is made the voice of the whole.

If the observations I have hazarded be not misapplied, it follows that a limitation of the validity of national acts to the computed life of a nation, is in some instances not required by Theory, and in others cannot be accomodated to practice. The observations are not meant however to impeach either the utility of the principle in some particular cases; or the general importance of it in the eye of the philosophical Legislator. On the contrary it would give me singular pleasure to see it first announced in the proceedings of the U. States, and always kept in their view, as a salutary curb on the living generation from imposing unjust or unnecessary burdens on their successors. But this is a pleasure which I have little hope of enjoying. The spirit of philosophical legislation has never reached some parts of the Union, and is by no means the fashion here, either within or without Congress. The evils suffered & feared from weakness in Government, and licentiousness in the people, have turned the attention more towards the means of strengthening the former, than of narrowing its extent in the minds of the latter. Besides this, it is so much easier to espy the little difficulties immediately incident to every great plan, than to comprehend its general and remote benefits, that our hemisphere must be still more enlightened before many of the sublime truths which are seen thro' the medium of Philosophy, become visible to the naked eye of the ordinary Politician.

Thomas Jefferson to Samuel Kercheval Monticello, July 12, 1816

[EXCERPT]

Some men look at constitutions with sanctimonious reverence, and deem them like the arc of the covenant, too sacred to be touched. They ascribe to the men of the preceding age a wisdom more than human, and suppose what they did to be beyond amendment. I knew that age well; I belonged to it, and labored with it. It deserved well of its country. It was very like the present, but without the experience of the present; and forty years of experience in government is worth a century of book-reading; and this they would say themselves, were they to rise from the dead. I am certainly not an advocate for frequent and untried changes in laws and constitutions. I think moderate imperfections had better be borne with; because, when once known, we accommodate ourselves to them, and find practical means of correcting their ill effects. But I know also, that laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths disclosed, and manners and opinions change with the change of circumstances, institutions must advance also, and keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy, as civilized society to remain ever under the regimen of their barbarous ancestors. It is this preposterous idea which has lately deluged Europe in blood. Their monarchs, instead of wisely yielding to the gradual change of circumstances, of favoring progressive accommodation to progressive improvement, have clung to old abuses, entrenched themselves behind steady habits, and obliged their subjects to seek through blood and violence rash and ruinous innovations, which, had they been referred to the peaceful deliberations and collected wisdom of the nation, would have been put into acceptable and salutary forms. Let us follow no such examples, nor weakly believe that one generation is not as capable as another of taking care of itself, and of ordering its own affairs. Let us, as our sister States have done, avail ourselves of our reason and experience, to correct the crude essays of our first and unexperienced, although wise, virtuous, and well-meaning councils. And lastly, let us provide in our constitution for its revision at stated periods. What these periods should be, nature herself indicates. By the European tables of mortality, of the adults living at any one moment of time, a majority will be dead in about nineteen years. At the end of that period, then, a new majority is come into place; or, in other words, a new generation. Each generation is as independent as the one preceding, as that was of all which had gone before. It has then, like them, a right to choose for itself the form of government it believes most promotive of its own happiness; consequently, to accommodate to the circumstances in which it finds itself, that received from its predecessors; and it is for the peace and good of mankind, that a solemn opportunity of doing this every nineteen or twenty years, should be provided by the constitution; so that it may be handed on, with periodical repairs, from generation to generation, to the end of time, if anything human can so long endure. It is now forty years since the constitution of Virginia was formed.

The same tables inform us, that, within that period, two-thirds of the adults then living are now dead. Have then the remaining third, even if they had the wish, the right to hold in obedience to their will, and to laws heretofore made by them, the other two-thirds, who, with themselves, compose the present mass of adults? If they have not, who has? The dead? But the dead have no rights. They are nothing; and nothing cannot own something. Where there is no substance, there can be no accident. This corporeal globe, and everything upon it, belong to its present corporeal inhabitants, during their generation. They alone have a right to direct what is the concern of themselves alone, and to declare the law of that direction; and this declaration can only be made by their majority. That majority, then, has a right to depute representatives to a convention, and to make the constitution what they think will be the best for themselves. But how collect their voice? This is the real difficulty. If invited by private authority, or county or district meetings, these divisions are so large that few will attend; and their voice will be imperfectly, or falsely pronounced. Here, then, would be one of the advantages of the ward divisions I have proposed. The mayor of every ward, on a question like the present, would call his ward together, take the simple yea or nay of its members, convey these to the county court, who would hand on those of all its wards to the proper general authority; and the voice of the whole people would be thus fairly, fully, and peaceably expressed, discussed, and decided by the common reason of the society. If this avenue be shut to the call of sufferance, it will make itself heard through that of force, and we shall go on, as other nations are doing, in the endless circle of oppression, rebellion, reformation; and oppression, rebellion, reformation, again; and so on forever.

These, Sir, are my opinions of the governments we see among men, and of the principles by which alone we may prevent our own from falling into the same dreadful track. I have given them at greater length than your letter called for. But I cannot say things by halves; and I confide them to your honor, so to use them as to preserve me from the gridiron of the public papers. If you shall approve and enforce them, as you have done that of equal representation, they may do some good. If not, keep them to yourself as the effusions of withered age and useless time.

I shall, with not the less truth, assure you of my great respect and consideration.

Th. Jefferson

Federalist Paper #49

**Method of Guarding Against the Encroachments of Any One Department of Government by Appealing to the People Through a Convention
From the New York Packet. Tuesday, February 5, 1788.
HAMILTON OR MADISON**

To the People of the State of New York:

THE author of the "Notes on the State of Virginia," quoted in the last paper, has subjoined to that valuable work the draught of a constitution, which had been prepared in order to be laid before a convention, expected to be called in 1783, by the legislature, for the establishment of a constitution for that commonwealth. The plan, like every thing from the same pen, marks a turn of thinking, original, comprehensive, and accurate; and is the more worthy of attention as it equally displays a fervent attachment to republican government and an enlightened view of the dangerous propensities against which it ought to be guarded. One of the precautions which he proposes, and on which he appears ultimately to rely as a palladium to the weaker departments of power against the invasions of the stronger, is perhaps altogether his own, and as it immediately relates to the subject of our present inquiry, ought not to be overlooked. His proposition is, "that whenever any two of the three branches of government shall concur in opinion, each by the voices of two thirds of their whole number, that a convention is necessary for altering the constitution, or CORRECTING BREACHES OF IT, a convention shall be called for the purpose. "As the people are the only legitimate fountain of power, and it is from them that the constitutional charter, under which the several branches of government hold their power, is derived, it seems strictly consonant to the republican theory, to recur to the same original authority, not only whenever it may be necessary to enlarge, diminish, or new-model the powers of the government, but also whenever any one of the departments may commit encroachments on the chartered authorities of the others.

The several departments being perfectly co-ordinate by the terms of their common commission, none of them, it is evident, can pretend to an exclusive or superior right of settling the boundaries between their respective powers; and how are the encroachments of the stronger to be prevented, or the wrongs of the weaker to be redressed, without an appeal to the people themselves, who, as the grantors of the commissions, can alone declare its true meaning, and enforce its observance? There is certainly great force in this reasoning, and it must be allowed to prove that a constitutional road to the decision of the people ought to be marked out and kept open, for certain great and extraordinary occasions. But there appear to be insuperable objections against the proposed recurrence to the people, as a provision in all cases for keeping the several departments of power within their constitutional limits. In the first place, the provision does not reach the case of a combination of two of the departments against the third. If the legislative authority, which possesses so many means of operating on the motives of the other departments, should be able to gain to its interest either of the others, or even one third of its members, the remaining department could derive no advantage from its remedial provision. I do not dwell, however, on this objection, because it may be thought to be rather against the modification of the principle, than against the principle itself. In the next place, it may be considered as an objection inherent in the principle, that as every appeal to the people would carry an implication of some defect in the government, frequent appeals would, in a great measure, deprive the government of that veneration which time bestows on every thing, and without which perhaps the wisest and freest governments would not possess the requisite stability.

If it be true that all governments rest on opinion, it is no less true that the strength of opinion in each individual, and its practical influence on his conduct, depend much on the number which he supposes to have entertained the same opinion. The reason of man, like man himself, is timid and cautious when left alone, and acquires firmness and confidence in proportion to the number with which it is associated. When the examples which fortify opinion are ANCIENT as well as NUMEROUS, they are known to have a double effect. In a nation of philosophers, this consideration ought to be disregarded. A reverence for the laws would be sufficiently inculcated by the voice of an enlightened reason. But a nation of philosophers is as little to be expected as the philosophical race of kings wished for by Plato. And in every other nation, the most rational government will not find it a superfluous advantage to have the prejudices of the community on its side. The danger of disturbing the public tranquillity by interesting too strongly the public passions, is a still more serious objection against a frequent reference of constitutional questions to the decision of the whole society. Notwithstanding the success which has attended the revisions of our established forms of government, and which does so much honor to the virtue and intelligence of the people of America, it must be confessed that the experiments are of too ticklish a nature to be unnecessarily multiplied.

We are to recollect that all the existing constitutions were formed in the midst of a danger which repressed the passions most unfriendly to order and concord; of an enthusiastic confidence of the people in their patriotic leaders, which stifled the ordinary diversity of opinions on great national questions; of a universal ardor for new and opposite forms, produced by a universal resentment and indignation against the ancient government; and whilst no spirit of party connected with the changes to be made, or the abuses to be reformed, could mingle its leaven in the operation. The future situations in which we must expect to be usually placed, do not present any equivalent security against the danger which is apprehended. But the greatest objection of all is, that the decisions which would probably result from such appeals would not answer the purpose of maintaining the constitutional equilibrium of the government.

We have seen that the tendency of republican governments is to an aggrandizement of the legislative at the expense of the other departments. The appeals to the people, therefore, would usually be made by the executive and judiciary departments. But whether made by one side or the other, would each side enjoy equal advantages on the trial? Let us view their different situations. The members of the executive and judiciary departments are few in number, and can be personally known to a small part only of the people. The latter, by the mode of their appointment, as well as by the nature and permanency of it, are too far removed from the people to share much in their prepossessions. The former are generally the objects of jealousy, and their administration is always liable to be discolored and rendered unpopular. The members of the legislative department, on the other hand, are numerous. They are distributed and dwell among the people at large. Their connections of blood, of friendship, and of acquaintance embrace a great proportion of the most influential part of the society. The nature of their public trust implies a personal influence among the people, and that they are more immediately the confidential guardians of the rights and liberties of the people.

With these advantages, it can hardly be supposed that the adverse party would have an equal chance for a favorable issue. But the legislative party would not only be able to plead their cause most successfully with the people. They would probably be constituted themselves the judges. The same influence which had gained them an election into the legislature, would gain them a seat in the convention. If this should not be the case with all, it would probably be the case with many, and pretty certainly with those leading characters, on whom every thing depends in such bodies. The convention, in short, would be composed chiefly of men who had been, who actually were, or who expected to be, members of the department whose conduct was arraigned. They would

consequently be parties to the very question to be decided by them. It might, however, sometimes happen, that appeals would be made under circumstances less adverse to the executive and judiciary departments. The usurpations of the legislature might be so flagrant and so sudden, as to admit of no specious coloring. A strong party among themselves might take side with the other branches. The executive power might be in the hands of a peculiar favorite of the people.

In such a posture of things, the public decision might be less swayed by prepossessions in favor of the legislative party. But still it could never be expected to turn on the true merits of the question. It would inevitably be connected with the spirit of pre-existing parties, or of parties springing out of the question itself. It would be connected with persons of distinguished character and extensive influence in the community. It would be pronounced by the very men who had been agents in, or opponents of, the measures to which the decision would relate. The PASSIONS, therefore, not the REASON, of the public would sit in judgment. But it is the reason, alone, of the public, that ought to control and regulate the government. The passions ought to be controlled and regulated by the government. We found in the last paper, that mere declarations in the written constitution are not sufficient to restrain the several departments within their legal rights. It appears in this, that occasional appeals to the people would be neither a proper nor an effectual provision for that purpose. How far the provisions of a different nature contained in the plan above quoted might be adequate, I do not examine. Some of them are unquestionably founded on sound political principles, and all of them are framed with singular ingenuity and precision.

PUBLIUS.

The Constitution of the United States

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Article V

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.