



THE IMPORTANCE OF WHAT IS NOT SAID IN THE CONSTITUTION

Learning Objectives: The students will...

1. Recognize that some important facts are not found in the Constitution.
2. Understand that some facts about our government have developed by custom or law.

TEKS: Govt. 6D

Materials Needed: Copies of the Agree/Disagree worksheet for each student or group, copies of the U.S. Constitution for each student or group.

Teaching Strategy:

1. Distribute a copy of the Agree/Disagree worksheet to each student or small group of students.
2. Have the students read each statement and decide if they agree or disagree that it is included in the Constitution. They should mark their answers in either the first or second column.
3. Distribute a copy of the U.S. Constitution to each student or small group. Review the organization of the Constitution to help them:
 - a. Article I: Legislative Branch (Congress) and limitations on the national government and/or the state
 - b. Article II: Executive Branch (President)
 - c. Article III: Judicial Branch (Courts)
 - d. Article IV: Relations among the states, admission of new states, and obligations of the national government to the states
 - e. Article V: Amendment Process
 - f. Article VI: Supreme Law of the Land
 - g. Article VII: Ratification of the Constitution
4. Let them find the correct answers and mark the second set of Agree/Disagree statements in the 4th or 5th columns. In the last column, they should validate each final answer.
5. Conclude the lesson by having the students express their opinions about the idea that some key facts about our government are not written in the Constitution.

The Importance of What Is Not Said Teacher Key

Directions: Read each statement below. If you agree that the statement is in the Constitution, mark “Agree” in the 1st column. If you don’t think it is in the Constitution, mark the “Disagree” in the 2nd column. After completing all statements, review the Constitution to find the actual answer. Mark that final answer of “Agree” in the 4th column or “Disagree” in the 5th column. Provide validation for your final answer in the 6th column.

Agree	Disagree	Statement	Agree	Disagree	Validation of answer
		1. A member of the House of Representatives must live in the district from which he/she is elected.		X	Article I, Section 2 Only has to live in state—districts are not mentioned
		2. There are no qualifications of any kind needed for a member of the Supreme Court.	X		In Article III, no qualifications are listed—members are appointed by the President and approved by the Senate.
		3. The number of members of the House of Representatives is 435.		X	The number 435 is not in Article I. It is set by a law of Congress.
		4. Political parties are to be used to nominate candidates for President and Vice-President.		X	There is no provision for political parties or a nominating process of any kind in the election process of the President/VP in Article II.
		5. There is never to be any religious test for holding an office in the government of the United States.	X		Article VI, Section 3 All officials have to take an oath, but there can never be a religious test.
		6. The Supreme Court can declare a law passed by Congress or an action of the President unconstitutional using its power of judicial review.		X	The power of judicial review came from the Supreme Court decision of <i>Marbury v. Madison</i> in 1803. It is not in the Constitution.
		7. The Speaker of the House of Representatives follows the Vice-President in succession to the Presidency.		X	Article II, Section 6 and the 25 th Amendment only speak of the VP following the President if he/she cannot fulfill duties of the office. The order of succession after the VP has been established by a law from Congress.
		8. The number of members of the Supreme Court is to be 9.		X	Article III, Section 1 only creates the Supreme Court but says nothing about the number of members of that court. Congress by law sets the number of justices.
		9. A person can’t be convicted of a crime unless what he/she did was against the law at the time he/she did it.	X		Article I, Sections 9 and 10 prohibit both the national government and the states from passing an ex-post facto law.
		10. The President has the right of executive privilege with regards to communications between him and his advisors, and no one can force him to reveal these communications.		X	Article II does not mention any right of executive privilege. The Supreme Court has ruled that the President does have the right, but it is unlimited. (Ex. <i>U.S. v. Nixon</i>)

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		11. A court is the only body that can judge a person guilty of a crime.	X		Article I, Section 9 states that neither the national government or the states can pass a Bill of Attainder.
		12. A person can't usually be held in custody indefinitely without being told of the charges against him/her.	X		Article I, Section 9 Congress cannot suspend the right of Writ of Habeas Corpus except in times of invasion or rebellion.
		13. No state without its consent can be denied its equal representation in the U.S. Senate.	X		Article V provides that no amendment to the Constitution shall deny any state its equal representation in the Senate without its consent.
		14. The President must approve any proposed amendments to the U.S. Constitution.		X	Article II or Article V does not provide any role for the President in the amendment process.
		15. The states have seven years in which to decide whether or not to ratify a proposed amendment to the Constitution.		X	Article V does not state a time limit. Congress by law may and usually has set a time limit.
		16. The new U.S. Constitution written in Philadelphia had to be ratified by the state legislatures of all 13 states at that time for it to become official.		X	Article VII states that nine special state conventions of the original 13 states had to ratify the Constitution.
		17. Treaties between the U.S. and other nations are part of the highest law of the land.	X		Article VI states that treaties between the U.S. and other nations are part of the supreme law of the land.
		18. The U.S. must guarantee each state a republican form of government.	X		Article IV, Section 4 states that the U.S. shall guarantee each state a republican form of government as well as protect them from invasion.
		19. Marriages, divorces, or wills legally made in any state must be recognized and enforced by other states.	X		Article IV, Section 1 states that full faith and credit shall be given in each state to the public acts, official records, and judicial proceedings of all other states.

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		4. Political parties are to be used to nominate candidates for President and Vice-President.			
		5. There is never to be any religious test for holding an office in the government of the United States.			
		6. The Supreme Court can declare a law passed by Congress or an action of the President unconstitutional using its power of judicial review.			
		7. The Speaker of the House of Representatives follows the Vice-President in succession to the Presidency.			
		8. The number of members of the Supreme Court is to be 9.			
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		10. The President has the right of executive privilege with regards to communications between him and his advisors, and no one can force him to reveal these communications.			
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