ARTICLE V.

§ 190. Amendments to the Constitution.

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.

§ 191. Form of and action on amendments to the Constitution.

Amendments to the Constitution are proposed in the form of joint resolutions, which have their several readings and are enrolled and signed by the presiding officers of the two Houses (V, 7029, footnote), but are not presented to the President for his approval (V, 7040; see discussion under § 115, *supra*; Hollingsworth *v.* Virginia, 3 U.S. (3 Dall.) 378 (1798)). They are filed with the Archivist who, under the law (1 U.S.C. 106b; 1 U.S.C. 112), has the responsibility for the certification and publication of such amendments, once they are ratified by the States. Under the earlier procedure, the two Houses sometimes requested the President to transmit to the States certain proposed amendments (V, 7041, 7043), but a concurrent resolution to that end was without privilege (VIII, 3508). The President notified Congress by message of the promulgation of the ratification of a constitutional amendment (V, 7044).

§ 192. The two-thirds vote on proposed amendments.

The vote required on a joint resolution proposing an amendment to the Constitution is two-thirds of those voting, a quorum being present, and not two-thirds of the entire membership (V, 7027, 7028; VIII, 3503). The majority required to pass a constitutional amendment, like the majority required to pass a bill over the President's veto (VII, 1111) and the majority required to adopt a motion to suspend the rules (Dec. 16, 1981, pp. 31850, 31851, 31855, 31856), is two-thirds of those Members voting either in the affirmative or negative, a quorum being present, and Members who only indicate that they are "present" are not counted in this computation (Nov. 15, 1983, p. 32685). The requirement of the two-thirds vote applies to the vote on the final passage and not to amendments (V, 7031, 7032; VIII, 3504), or prior stages (V, 7029, 7030), but is required where the House votes on agreeing to Senate amendments (V, 7033, 7034; VIII, 3505), or on agreeing to a conference report (V, 7036). One House having, by a two-thirds vote, passed in amended form a proposed constitutional amendment from the other House, and then having by a majority vote receded from its amendment, the constitutional amendment was held not to be passed (V, 7035).

In the 95th Congress, both the House and Senate agreed by a majority vote to House Joint Resolution 638, extending the time period for ratification by the States of the Equal Rights Amendment, where House Joint Resolution 208 of the 92d Congress, proposing the amendment, had provided for a seven-year ratification period. The House determined in the 95th Congress, by laying on the table by a record vote a privileged resolution asserting that a vote of two-thirds of the Members present and voting was required to pass a joint resolution extending the ratification period for a constitutional amendment already submitted to the States, that only a majority vote was required on H.J. Res. 638 (Speaker O'Neill, Aug. 15, 1978, p. 26203).

The joint resolution extending the ratification period for the Equal Rights Amendment was delivered to the President, who signed it although expressing doubt as to the necessity for his doing so (Presidential Documents, Oct. 19, 1978). When sent to the Archivist, the joint resolution was not assigned a public law number, but the Archivist notified the States of the action of the Congress in extending the ratification period. For a judicial decision voiding this extension as well as declaring that a State does have the power to rescind a prior ratification of a proposed constitutional amendment, see Idaho *v.* Freeman, 529 F.Supp. 1107 (D.C.D. Idaho, 1981), judgment stayed *sub nom.* National Organization of Women *v.* Idaho, 455 U.S. 918 (1982), vacated and remanded to dismiss, 459 U.S. 809 (1982).

The yeas and nays are not required to pass a joint resolution proposing to amend the Constitution (V, 7038–7039; VIII, 3506).

Question has arisen as to the power of a State to recall its assent to a constitutional amendment (V, 7042; footnotes to §§ 225, 234, *infra*) but has not been the subject of a final judicial determination.

§ 193. Decisions of the Court.

Decisions of the Supreme Court of the United States: National Prohibition Cases, 253 U.S. 350 (1920); Hawke *v.* Smith, 253 U.S. 221 (1920); Dillon *v.* Gloss, 256 U.S. 368 (1921); Leser *v.* Garnett, 258 U.S. 130 (1922); Coleman *v.* Miller, 307 U.S. 433 (1939); Chandler *v.* Wise, 307 U.S. 474 (1939).

ARTICLE VI.

§ 194. Validity of debts and engagements.

[1] All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

§ 195. Constitution, laws, and treaties the supreme law of the land.

[2] This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

§ 196. Oaths of public officers; and prohibition of religious tests.

[3] The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

§ 197. Form of oath.

The form of the oath is prescribed by statute (5 U.S.C. 3331; I, 128): "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully