



CIVICS IN REAL LIFE

Civics is all around us. There is a lot to know about the government and how "We the People" interact with the government and each other. Let's help each other expand our civic literacy.

The Foreign Emoluments Clause

Recently, it was announced that the government of Qatar, a United States ally in the Middle East, was gifting the US Department of Defense with a \$400 million aircraft to serve as the new Air Force One for President Trump. Following his term in office, it would be given to his presidential library for personal use. This has raised some constitutional concerns. So, what does the U.S. Constitution say about presidents receiving gifts from foreign nations?

[Federalist 22](#) explained the concern that republics could be weak to corruption by a foreign leader, and emphasized that this weakness would need to be addressed in the new federal Constitution. According to [Article I, Section 9, Clause 8](#) of the U.S. Constitution (known as the Foreign Emoluments Clause), "...no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State." In its most common understanding, no one who serves in a government role of any kind should accept gifts from foreign leaders or

countries. This includes but is not limited to military members, ambassadors, members of Congress, the president of the United States, and even spouses of people serving in government positions. This constitutional clause is backed up by federal law.

To further define the conditions in which gifts are received under the Foreign Emoluments Clause, Congress passed a federal statute that sets the value of [acceptable foreign gifts at \\$480.00](#), as long as those gifts are not given in exchange for some benefit. Any gift over that amount must be reported to the government, and it automatically becomes the property of the United States rather than the individual who accepted the gift. To understand this in practice, we can look at [historical examples](#).

In 1880, President Hayes was gifted the famous [Resolute Desk](#) by the British monarch Queen Victoria. The desk has been used by the majority of sitting presidents since 1880, and has been continually used by sitting presidents since 1993. The West German Chancellor Konrad Adenauer gave [President Eisenhower a famous 16th-century painting](#). Humorously, the government of Bulgaria once gifted [President George W. Bush](#) with a puppy! An American family ultimately raised the dog, due to the dog being categorized as a gift to the U.S.



It is important to note that when officials of the United States accept gifts from foreign governments and fail to report them as required by law, investigations into the official's conduct could lead to [criminal charges](#). For example, Democratic United States Senator Bob Menendez was charged with bribery for accepting gold bars, cash, and furniture from someone acting on behalf of Qatar. The charge claimed that Qatar expected benefits in exchange for these gifts.

While foreign gifts to presidents have a long history dating back to Washington, the Emoluments Clause has rarely been tested in court. Most recently, questions were raised around the Emoluments Clause [during President Trump's first term in office](#). Here,

plaintiffs raised questions about whether the president was violating the clause because he had an ownership stake in hotels used by foreign officials visiting the United States and was getting an unlawful benefit. Ultimately, the lawsuits failed. The courts ruled in some cases that the plaintiffs had no standing to sue, while the Supreme Court ordered other decisions to be vacated because President Trump was no longer in office.

If the aircraft gift from Qatar is challenged, it will be up to the courts to decide. Constitutional scholars evaluate the Foreign Emoluments Clause as one open to some [interpretation and debate](#), and a lack of [precedent](#); it's unclear how any potential case would be decided.

To Think and To Do:

Alexander Hamilton writes in [Federalist 22](#) that "One of the weak sides of republics, among their numerous advantages, is that they afford too easy an inlet to foreign corruption." Given the language of the Emoluments Clause, why do you think the Framers granted Congress the authority to authorize the acceptance of gifts from foreign nations? Explain.



Lou Frey
Institute