

ABOUT THE CONSTITUTION OF THE UNITED STATES

The Constitution defines the fundamental law of the United States federal government, setting forth the three principal branches of the federal government, outlining their jurisdictions, and propounding the basic rights of U.S. citizens. It has become the landmark legal document of the Western world, and is the oldest written national constitution currently in effect. The essential principle of the document is that government must be confined to the rule of law.

During the Constitutional Convention in Philadelphia, convened in the summer of 1787, 55 delegates met to amend the Articles of Confederation, the first written constitution of the U.S. However, in its final form, the new Constitution of the United States was substantially rewritten. On September 28, 1787, it was submitted to the 13 states for ratification. By June 1788, nine states had ratified the document. March 4, 1789, was set as the day the new Constitution would take effect.

Ratification in most states depended upon the adoption of the Bill of Rights -- as the first proposed amendments to the Constitution. Of the 12 amendments proposed in September 1789, 10 were ratified by the states, and their formal adoption occurred on December 15, 1791.

The Articles of Confederation as Precursor to the Constitution

The Articles of Confederation, written in 1781, had been explicit in guarding the independence of the states and did not provide for a federal chief executive or judicial system. Any amendment to the Articles of Confederation had required unanimous approval of all the states. The early framers of the Articles had been heavily influenced by the constitutions of individual states and the principles underlying the Declaration of Independence, and were particularly concerned with limiting the powers of the federal government over the states and guaranteeing the freedom of each individual citizen.

To allay the fear that a monolithic centralized government in which all power was vested would readily lead to tyranny, the principle of separation of power among the executive, legislative and judicial branches was devised. This system of checks and balances would maintain the delicate balance between the authority of the federal government and the rights and liberties of the individual citizen.

Interpretation of the Constitution

The Constitution represents only a set of general principles out of which implementing statutes and codes have emerged. The success of the document in remaining the foundation of American government is based on the fact that successive Congresses and Courts have been able to interpret it or readapt it to the demands of changing times.

Often, contributions to Constitutional interpretation are set by precedent, custom and usage. Early on, Congress began enhancing the definition of Constitution powers through statute, such as providing for the creation of the federal budget system, executive departments, federal courts, new states and territories, and controlling presidential succession. Article I, section 8, states that Congress shall have the authority "To make all Laws which shall be necessary and proper for carrying into Execution" the various powers allotted to the federal government by the Constitution.

The executive branch added to Constitutional interpretation by developing the executive agreement as a foreign policy instrument. Other practices based on custom and usage have become practically unassailable and have been recognized as valid extensions of Constitution interpretation: political parties, procedures for nominating presidential candidates, the electoral college system, the appointment of a presidential cabinet.

Articles I - VII: The Organization of the Federal Government

The organization of the Federal government is laid out in the first seven articles of the Constitution. Article I vests all law-making powers in the House of Representatives and the Senate, giving those legislative bodies the right to raise taxes, borrow money, regulate interstate commerce, conscript military forces, and declare war. Each legislative body was given

power to determine its own rules of procedure. As an additional check on the executive branch, the House was authorized to instigate impeachment proceedings against the chief executive officer, the President, and the Senate to adjudicate them.

Article II vests executive power in the hands of the President, including responsibilities as the chief executive officer, commander-in-chief of the military forces, and with treaty-making power (with the approval of two-thirds of the Senate). The President is also given power of appointment for positions within the Federal government, upon approval of the majority of the Senate.

Article III puts judicial power in the hands of the courts. The Supreme Court of the United States is mandated as the final court of appeal from the lower state and federal courts. The courts interpret the Constitution -- that is, they have the power of judicial review. Although this power was not explicitly mentioned in the Constitution, the principle was definitively established by Chief Justice John Marshall in the 1803 Supreme Court case *Marbury v. Madison*.

Article IV of the Constitution treats relations among the states and the rights of citizens of the states. Article V deals with the procedures to amend the Constitution. (Amendments to the Constitution may be proposed by a 2/3 vote of both houses of Congress, or by a Constitutional convention called by Congress upon the appeal of 2/3 of state legislatures. Any proposed amendments must be ratified by 3/4 of state legislatures or by Constitutional conventions called by the states. To date, all amendments to the Constitution have been initiated by Congress, rather than the state legislatures.)

Article VI deals with public debt and final and ultimate authority of the Constitution. Article VII sets forth terms of ratification of amendments.

Enumerated Powers and the "Elastic" Clause

Article X states that the national (federal) government has only those powers that are delegated to it explicitly -- enumerated -- in the Constitution. All other government powers fall by default to the states -- residual powers -- with the limitation that nothing prescribed by state law can nullify any of the powers granted in the Constitution. Despite the fact that residual powers remained with the states, the "elastic clause" of the Constitution (Article I, section 8) states that Congress shall have the authority to "make all Laws which shall be necessary and proper for carrying into Execution" the powers given to the federal government by the Constitution.

Amendments to the Constitution

Twenty-seven amendments have been added to the Constitution since 1789. The first ten amendments, known as the Bill of Rights, were adopted as a unit in 1791.

Although the federal government is required by the provisions of the Constitution to respect the individual citizen's basic rights, such as right of trial by jury (Article I, Sec. 9), the most significant guarantees for individual civil rights were provided by ratification of the Bill of Rights (Amendments 1-10). The First Amendment guarantees freedom of religion, speech, and the press, the rights of peaceful assembly and petition.

Other amendments guarantee private property, fair treatment of those accused of crimes, such as unreasonable search and seizure, freedom from self-incrimination, a speedy and impartial jury trial, and representation by counsel.

Other amendments provided for abolishing slavery (13th - 1865), universal male suffrage [right to vote] (15th - 1870), a federal income tax (16th - 1913), direct election of U.S. Senators (17th - 1913), women's suffrage (19th - 1920), limiting to two the number of terms any one person may serve as president (22nd - 1951), suffrage to citizens 18 years and older (26th - 1970). The 18th Amendment (1919), mandating nationwide prohibition of alcoholic beverages, met with open defiance; the 21st Amendment (1933) repealed the failed 18th Amendment. An attempt to pass an Equal Rights Amendment (1972) fell three states short of ratification; it was reintroduced in Congress in 1982.

The 14th Amendment, ratified in 1868, placed several significant limitations on the powers of the states. It extended the federal protections of the Bill of Rights to citizens under state law, who previously had to look to each state constitution for such rights. The other provision of the 14th Amendment which places limits upon the powers of the state is the guarantee of "equal protection under the law" for all citizens of the United States. The Supreme Court applied this clause in its landmark decision outlawing school segregation (*Brown v. Board of Education of Topeka*).