

The Constitution: A More Perfect Union

9.1 Introduction

When the delegates left Independence Hall in September 1787, they each carried a copy of the Constitution. Their task now was to convince their states to approve the document that they had worked so hard to write.

As you read in the last chapter, writing the Constitution involved many compromises. Most of all, the framers, or writers, wanted a central government that would be strong and lasting, but not so strong that it endangered people's freedoms. In this chapter, you will see how the Constitution meets these goals.

The delegates wanted ordinary citizens to understand and support the Constitution. For this reason, they organized its contents very clearly. After a short introduction, they divided the Constitution into parts called articles. Then they split each article into numbered sections that present topics in a careful order.

This structure can help you find information in the Constitution. For instance, the first section in the article on the president describes how the president is chosen. The second section lists the president's powers. The third section lists presidential duties, and the fourth explains how the president can be removed from office. If you wanted to find out whether the president can sign treaties, where would you look?

One of the marvels of the Constitution is the way it combines a strong framework for the government with flexibility. In general, the delegates allowed Congress, the president, and the courts to add details to the basic framework. They also included procedures for changing the Constitution.

This combination of strength and flexibility makes the Constitution a "living document." Like a plant or an animal, the Constitution keeps its basic nature, yet it also changes with the times. The "living" quality of the Constitution helps to explain why it has survived for so long.

The delegates did their work well. More than 200 years after the Constitution was created for a new nation, a vastly different United States is still governed by this ingenious document.

9.2 The Preamble Tells the Goals of Government

The delegates who crafted the Constitution chose each word carefully. Some of their best-known words come in the introduction, called the Preamble. The Preamble explains the reasons for the new government.

The Constitution begins with the memorable phrase "We the People." With these words, the delegates announced that the Constitution based its authority on the people themselves. The power to form the government did not come from the states or from the existing government. It did not come from a sovereign (ruler) appointed by God. Instead, the power came from ordinary Americans. This concept is known as **popular sovereignty**.

The Preamble then lists the goals of the new government. First, the delegates wanted to "form a more perfect Union." This meant building a country that could take advantage of the strengths the states gained from working together.

The Constitution also aims to "establish Justice." Americans wanted to be ruled by laws, not by the might of soldiers or the decisions of kings. The same laws would apply to all people.

The delegates hoped that the new government would "insure domestic Tranquility." By "tranquility," they meant peace and order. If the new system worked well, people would not fight the government or each other.

The new government would "provide for the common defense." In other words, the national government would be responsible for protecting Americans from foreign invaders. This would allow for stronger protection than if each state had its own army and navy.

The delegates wanted the new government to "promote the general Welfare." This means that it could support an economy and society in which people could prosper.

Finally, the delegates hoped to "secure the Blessings of Liberty to ourselves and our Posterity." By "posterity," the delegates meant the generations that would come after them. They wanted Americans to enjoy freedom then and in the future. We are their future, their posterity.

The delegates knew that these goals required a national government, but many people were suspicious of a strong central government. For this reason, the delegates tried to create a balanced framework that people could trust.

9.3 The Legislative Branch Makes Laws

For the framers of the Constitution, the first step in building a trusted government was to create a fair way to make laws. Article I of the Constitution gives the power to make laws to the **legislative branch** of government.

The Structure of Congress The Constitution creates a **bicameral** (two part) national legislature, called Congress. The two parts, or "houses," of Congress are the House of Representatives and the Senate.

Members of the Senate serve six-year terms so that they can enjoy some independence from the day-to-day opinions of voters. In contrast, members of the House serve two-year terms. As a result, they have to face the voters much more often. In this way, the framers tried to balance the independence and thoughtfulness of the Senate with the House's responsiveness to the changing wishes of the voters.

The framers also designed Congress to balance the rights of large and small states. Thus, while every state gets two senators, representation in the House is based on population. States with more people have more House representatives. To determine the number of representatives for each state, the Constitution calls for a census (a count of the population) every ten years. In time, the number of representatives in the House was set at 435.

The framers considered the Senate to be the "upper house" of the legislature. Its members are supposed to be wiser and more experienced than members of the "lower house." Senators must be at least 30 years old, while House members must be 25. Senators must have been citizens for nine years, House members for just seven years.

Originally, the Constitution allowed state legislatures to choose the two senators to represent their state. Today, however, senators are elected by popular vote (direct vote by the people).

How Congress Passes Laws The primary job of Congress is to make laws. Any member of the House or Senate can submit a proposal for a new law, called a **bill**. However, only the House can propose new taxes. If a majority in one house votes in favor of the bill, it is sent to the other house for debate. If both houses approve the bill, it goes to the president. The bill becomes a law if the president signs it.

The president can **veto** (reject) any proposed law. Congress can override the president's veto, which means passing the bill over the president's objections. But to do so requires a two-thirds majority in both houses.

The Powers of Congress Article I spells out other powers of Congress. For example, only Congress can decide how to spend the money raised through taxes. Other congressional powers include the power to raise an army and navy, to declare war, to pay government debts, and to grant citizenship.

In addition, Congress may "make all laws which shall be necessary and proper" to carry out its other powers. This power, known as the "elastic clause," gives Congress the flexibility needed to do its job. Over the years, the elastic clause has been stretched to allow Congress to do many things that were never listed among its powers in the Constitution.

9.4 The Executive Branch Carries Out the Laws

A government needs people to carry out, or execute, the laws passed by the legislature. For instance, when Congress approves a tax, someone must collect the money. When Congress appropriates, or sets aside, money for low-cost housing, someone must build and manage the housing.

Article II of the Constitution describes the branch of government that fills this role, the **executive branch**. The head of the executive branch is the president. The president is often called the Chief Executive.

Electing the President As you read in Chapter 8, delegates at the Constitutional Congress were not prepared to let the people elect the president directly. Instead, they decided that the president would be selected by a group of "electors." Each state would have the same number of electors as it had representatives and senators. To win the presidency, a candidate needs a majority of the "electoral vote."

The president serves a four-year term. Under the Twenty-second Amendment, a president may be reelected only once. A new president makes a solemn promise called the oath of office. The Constitution gives the exact words of the oath. Notice that the president promises to "defend the Constitution." These words reinforce the importance of the Constitution as the basic law of the land.

A president must be a natural-born American citizen and at least 35 years old. The Constitution always refers to the president as "he." The delegates to the Constitutional Convention probably assumed that only men would ever vote or hold office. But nothing in the Constitution prevents a woman from being elected president.

The Powers of the President The president does more than carry out laws passed by Congress. The president is commander in chief of the nation's military forces. He or she can, with the consent of the Senate, make treaties, or formal agreements, with other nations. The president nominates, or recommends, ambassadors (official representatives to other countries) and Supreme Court justices (judges). Finally, the president can grant pardons to people convicted of violating federal (national) laws.

The framers expected that the executive branch would need organizations called "departments" to carry out its duties. For example, the State Department handles relations with other nations. The Justice Department is involved in law enforcement as well as in court actions. The heads of executive departments are members of the president's cabinet, a formal group of advisors.

Today, the executive branch has over a dozen departments. Each department contains smaller, specialized agencies. For instance, the Department of Health and Human Services contains the Food and Drug Administration. This agency works to ensure that foods and medicines meet safety standards that have been set by Congress.

Removing the President The Constitution gives Congress the power to remove a president or other officials from office if they commit certain crimes related to their duties. The House of Representatives can vote to impeach the president. To impeach means to formally accuse the president of the crimes specified in the Constitution. These include “Bribery, or other high Crimes and Misdemeanors.” If the House votes to **impeach**, the Senate puts the president on trial, with the senators serving as the jury. If found guilty, the president is removed from office.

9.5 The Judicial Branch Interprets the Law

The framers intended the Constitution to be the “supreme Law of the Land.” That means no other laws or actions by the government or by any state can conflict with the Constitution. Protecting the Constitution is one of the principal responsibilities of the third branch of government, the **judicial branch**. The judicial branch consists of the system of federal courts and judges.

Article III of the Constitution gives the basic framework of the judicial branch. It establishes the country’s highest court, the Supreme Court. It also gives Congress the power to create “inferior” (lower) courts to meet the nation’s needs.

In addition to protecting the Constitution, federal courts have the power to resolve disputes that involve national laws, the federal government, or the states. People accused of breaking national laws can be tried in federal courts.

Most cases involving federal laws are first heard in district court. The United States is divided into large geographic districts. Each district covers several states. Citizens can “appeal” decisions given in district court, which means asking a higher court to review the case. Courts that review cases are called courts of appeal or appellate courts. An appellate court only considers whether the original trial was fair and legal. A decision by an appellate court can be appealed to the Supreme Court.

The Powers of the Supreme Court The Supreme Court is the last stop in the judicial system. Its decisions are final, and they are binding on all lower courts. The Constitution does not specify the size of the Supreme Court. Congress has set it at nine members, who are called justices. The Constitution says that all federal judges, including Supreme Court justices, serve for “good behavior.” Once they are appointed, the justices usually serve on the Court for life.

A dispute goes directly to the Supreme Court only if it involves a state or an ambassador from another country. Any other case comes to the Supreme Court after a trial and an appeal in lower courts. Participants in either national or state courts may eventually appeal cases to the Supreme Court.

Every year, lawyers ask the Supreme Court to review thousands of cases, but they agree to consider only about a hundred. The Supreme Court usually reviews a case only if the justices think that the decision made by a lower court might conflict with the Constitution or a federal law. After hearing statements from both sides, the justices debate among themselves and vote. Supreme Court decisions are announced and explained in writing. These decisions then guide later decisions in lower courts.

Early in its history, the Supreme Court defined the power of “judicial review.” This is the power to decide whether laws and actions by the legislative and executive branches conflict with the Constitution. Courts all over the country rely on the Supreme Court for guidance about what is constitutional. Judicial review gives the Supreme Court great power in its role of protecting the “supreme Law of the Land.”

9.6 Checks and Balances Between the Branches

The framers of the Constitution were very concerned about achieving a balance between a strong national government and protection for American freedoms. Dividing the federal government into three branches was one way they hoped to limit the government’s power. But what would keep one branch from dominating the others? As one delegate to the Constitutional Convention pointed out, “From the nature of man, we may be sure that those who have power in their hands...will always, when they can...increase it.”

Because of this concern, the framers developed a system that would enable each branch of the government to limit the power of the other branches. This system is called **checks and balances**.

Checking the Power of Other Branches “Checks” allow one branch to block the actions of another branch. For instance, Congress has the power to pass laws. But the president can check this power by vetoing a bill before it becomes law. In turn, Congress can check the president’s power by overriding the veto by a two-thirds vote in both houses.

Similarly, the judicial branch can check the actions of the other two branches. Through its power of judicial review, the Supreme Court can declare that a law, a treaty, or an executive action is unconstitutional.

Balancing the Power of Other Branches “Balances” allow each branch of the government to have some role in the actions and power of the other branches. For instance, judges, ambassadors, and cabinet members are appointed only if the president nominates them and the Senate approves the nomination. Similarly, the president has the power to sign treaties, but they take effect only if the Senate approves them.

The powers of the judicial branch are also balanced against the powers of the other branches. Even though the Supreme Court can declare laws unconstitutional, it is the president who chooses federal judges—and the Senate must approve these appointments. In addition, Congress can impeach federal judges. In these ways, the legislative and executive branches have some role in the actions of the judicial branch.

These checks and balances keep any one branch of the federal government from being too strong. This balance of powers is one of the most important features of the American system of government.

9.7 The Amendment Process Changes the Constitution

The framers knew that the Constitution would need to be changed over time. As Thomas Jefferson said, the Constitution “belongs to the living and not to the dead.” At the same time, they wanted the Constitution to provide a lasting and stable framework for the government. To maintain that stability, the framers made changing the Constitution possible, but difficult.

Changing the Constitution Article V describes how changes, called **amendments**, can be made to the Constitution. Proposing an amendment requires a vote of two thirds of both houses of Congress, or a national convention called by Congress at the request of two thirds of the legislatures of all the states. Thus, either Congress or the states can start the process of amending the Constitution.

Proposing an amendment is only the first step. Before an amendment can become part of the Constitution, it must be approved by the legislatures (or by special conventions) in three quarters of the states. Once an amendment is approved, it becomes part of the supreme law of the land.

Amendments So Far Over the years, people have suggested more than 10,000 amendments to the Constitution. Only 27 of these have been approved.

The first ten amendments were added almost immediately after the Constitution was ratified (approved by the states). These amendments were demanded by many Americans in exchange for their support for the Constitution. Called the Bill of Rights, these ten amendments primarily guarantee specific rights to citizens. The Bill of Rights is so important in American history that the next chapter is devoted to it.

The other 17 amendments became part of the Constitution one at a time. Some of them changed the way certain public officials are elected. Others guaranteed the rights of certain groups of Americans. For instance, the Thirteenth Amendment made slavery illegal. The Nineteenth Amendment guaranteed women the right to vote. And the Twenty-sixth Amendment gave the right to vote to all citizens over the age of 18. Ideas for other amendments are proposed from time to time, but chances are that very few of them will become part of the Constitution.

9.8 The Federal System Connects the Nation and the States

The framers of the Constitution wanted a strong national government, but they also wanted the states to keep significant powers. They accomplished both goals by creating a federal system of government in which power is shared between the national and state governments.

Powers Belonging to the National Government Some powers are given solely to the national government. In general, these are powers best exercised by one central authority, such as declaring war and making treaties. The Constitution also says that only the national government can print and coin money. The framers had learned from bitter experience that having separate state currencies made no sense.

Similarly, Article I gives Congress the power “to regulate Commerce with foreign Nations, and among the several States, and with the Indian tribes.” Known as the “commerce clause,” this provision gives the national government the power to regulate **interstate commerce**. For example, a state cannot try to protect its own businesses and industries by taxing goods imported from other states. Under the Articles of Confederation, many states had done just that. As a result, interstate trade threatened to grind to a halt. In effect, the commerce clause made the entire United States a common market, or “free-trade zone.”

There were several advantages to having the states share a common market. First, goods and resources could flow more easily across the country. This is important because different regions do different things well. For example, New Englanders might be very good at making cloth, but their region is not good for cotton growing. Southerners, meanwhile,

might have lots of cotton but few factories for turning it into cloth. Making interstate trade easier for cloth makers and cotton growers helps both businesses thrive.

Second, the common market made it easier to create large businesses that crossed state lines. This was very important to companies like those that built the nation's railroads in the 19th century.

Third, the common market helped to create a single national economy. Under the Articles of Confederation, it was almost as if the country had 13 small economies. These could never have grown so diverse or powerful as the United States economy did.

Notice that the commerce clause also gives the national government the right to regulate trade with Indian tribes. In effect, the Constitution treats native tribes as foreign governments. Relations with these "nations within a nation" are the responsibility of Congress, not the states.

In the decades that followed, the national government made hundreds of treaties with different tribes, as if they were separate countries. But the promises made in those treaties were seldom kept. You will learn more about the fate of Native Americans in later chapters.

Powers Belonging to the States The Constitution does not spell out specific powers of the states. Instead, it says that the states retain any powers that are not given to the national government. For instance, the Constitution does not say anything about schools, marriage, establishing local governments, owning property, licensing doctors and lawyers, or most crimes. The states make the laws that guide these areas of American life.

The Constitution does, however, outline the responsibilities of states to each other. Article IV says that each state must give "full Faith and Credit" to the laws and court decisions of other states. This means accepting other states' laws and decisions as legal. For example, a marriage or divorce legalized in one state is legal in every state. Similarly, states cannot negate contracts that people have made in other states. Like the commerce clause, the "full faith and credit" provision brings stability to business dealings.

States are also required to help each other track down fleeing criminals. Criminals cannot escape justice by fleeing to another state.

Finally, the Constitution does not allow one state to discriminate unreasonably against a citizen of another state. A state may not, for example, refuse to let a child who was born in another state attend its public schools.

Shared Powers Federal and state governments also share some powers. For example, both can raise taxes, build roads, and borrow money.

If you think **federalism**, or the sharing of power, sounds complicated, you're right. Consider presidential elections. Congress sets the date for national elections, but the states register voters and run the elections. States count the ballots, but the national government organizes the Electoral College vote, which determines who will be president.

Federalism is also complicated because the Constitution provides only a general framework for the sharing of powers. Of course, there was no way for the framers to spell out rules for every possible situation. The federal system continues to evolve through new laws, court decisions, and constitutional amendments. No doubt it will continue to evolve long into the future.

The Law of the Land Americans may disagree about how to interpret the Constitution, but they may not ignore it. Article VI states that the Constitution and the laws flowing from it are the "supreme Law of the Land." This means that a state's constitution, laws, and judicial decisions must agree with the Constitution. They must also not conflict with any other federal laws or treaties. In addition, everyone who holds a state or federal office must promise to support the Constitution.

9.9 Popular Participation in Government

The framers of the Constitution designed a government based on the will of the people. They expected people to take part in their own government and to hold leaders responsible for their actions.

If government is to reflect the popular will, then it makes sense for decisions to be based on what most people want. The Constitution therefore establishes the principle of majority rule. Laws are passed in Congress by majority vote, and elections are decided by a majority of voters.

It is through elections that most people have a say in what the government does. Leaders must listen to the voters, or they will not be elected (or reelected). Elections serve the vital function of expressing the will of the people.

But who exactly are "the people"? The framers did not specify who would have the right to vote. Over the years, states established various requirements for voting. It took many years of struggle to establish the principle that all citizens should have the right to vote. Women, for example, were not guaranteed this right until the Nineteenth Amendment was ratified in 1920.

Popular participation in government has evolved in other ways that are not part of the Constitution. For example, the Constitution makes no mention of political **parties**. Today, parties select most candidates for political office. Becoming active in party affairs is another way that voters can help choose their leaders and influence the positions they take on issues. You will learn about the first political parties in Chapter 11.

People also take part in government indirectly through **interest groups**. There are interest groups for almost any issue people might care about. Some interest groups represent businesses, industries, and workers. Some represent groups of people, such as churchgoers, women, or minorities. Some are organized around issues, such as the environment or health care.

Interest groups influence government in several ways. They rally public opinion, work to elect candidates who promise to listen to them, and try to persuade lawmakers and government officials to take actions they favor.

If the framers were alive today, they might be surprised to see the changes in the system they created. Yet the remarkable thing is how successful they were in building the basic framework of American democracy. As one historian has said, the Constitution “would become the rule of life for a country larger than any of the founders imagined, and would last longer than most of them dared hope.”

9.10 Chapter Summary

In this chapter, you used an old parchment document to organize information as you studied how the Constitution defines the organization and powers of the federal government.

The Constitution created in 1787 is both strong and flexible. As the first words of the Preamble tell us, its authority comes directly from the people, not the states. Power is divided among three branches of government. The legislative branch makes the laws, the executive branch carries out the laws, and the judicial branch makes sure that the actions of the other two branches agree with the Constitution and federal laws. A system of checks and balances keeps any branch from gaining too much power. The Constitution also ensures that power is shared between the states and the national government in a system known as federalism.

For all its strength, the Constitution has been flexible enough to adapt to changing times. The framers purposely made the process of amending the Constitution difficult. Still, 27 amendments have been added since it was written. The first 10 amendments, called the Bill of Rights, guarantee the most cherished rights of American citizens. You will read about these amendments in the next chapter.