

## The Constitution

### History of the Constitution

Great Britain had a large impact on Founding Fathers

Magna Carta – 1215

trial by jury of peers (nobility only)

protected against loss of life, liberty, property

Representative government

Parliament (House of Lords, House of Commons)

English Bill of Rights (civil liberties)

John Locke

government as a contract between subject & ruler

Colonial Period early established democratic traditions in America

Mayflower Compact

1<sup>st</sup> written rules of government in the New World

House of Burgesses – Virginia

1<sup>st</sup> representative government in the colonies

Americans move towards independence

Committees of Correspondence

Second Continental Congress

both move colonies toward unity

Declaration of Independence

based on theories of Locke

Articles of Confederation (1777 – 1787)

no power to tax

no power to regulate interstate trade

no power to enforce laws

9 states necessary to enact laws

Amendments require unanimous agreement

no executive branch

no national court system

1786 – Shay's Rebellion

demonstrated weakness of Articles

Annapolis Convention

reps from 5 states meet and call for reform

Federalists – Alexander Hamilton & James Madison

1787 – Constitutional Convention meets in Philadelphia

Virginia Plan

legislature has all power

representation based on population

New Jersey Plan

small state option, one state – one vote principle

Connecticut Compromise

bicameral legislature (House of Representatives/Senate)

3/5 compromise on status of slaves

Ratification is controversial

Federalists vs. Anti-federalists

1<sup>st</sup> political parties in U.S.

Federalists promise Bill of Rights, Constitution ratified in 1789

## The Constitution

### Preamble

to form a more perfect union  
to establish justice  
to insure domestic tranquility  
to provide for the common defense  
to promote the general welfare  
to secure the blessings of liberty

### Articles

I. The Legislative Branch

II. The Executive Branch

III. The Judicial Branch

IV. Relations among states

Admission of new states

Enabling act of Congress

allows territory to write state constitution

Acts of Admission

approval of state constitution

Congress can set conditions for admission

Utah – polygamy

all states are equal regardless of admission date

Full faith and credit

states must recognize laws & contracts of other states

Privileges and immunities

citizens of one state can't be favored over other citizens

Extradition

states will send criminals back to state of crime

V. The Amending Process

2/3 vote of Congress or National Convention (never used) to initiate

3/4 of states (38) must ratify amendment to take affect

states can choose method of ratification

state legislature or state convention

Congress sets other rules for ratification

ex. – traditional 7 year time limit

VI. National Supremacy

Constitution is supreme law of the land

VII. Process for Ratification of the Constitution

## Principles of the Constitution

Popular sovereignty

power ultimately resides with the people of the United States

Federalism

power divided amongst national, state, and local government

- Separation of Powers
  - checks & balances
- Limited government
  - when in doubt, government is restricted from acting
- Constitutional Amendments
  - Bill of Rights – 1<sup>st</sup> 10 Amendments (all passed by 1792)
    - 1<sup>st</sup>
      - separation of church & state
      - freedom of speech and press
        - slander – speech intended to damage
        - libel – written word intended to damage
      - right of assembly
    - 2<sup>nd</sup>
      - right to organize state militias and bear arms
    - 3<sup>rd</sup>
      - prohibits the quartering of soldiers in homes
    - 4<sup>th</sup>
      - prohibits unreasonable searches & seizures
        - probable cause
        - search or arrest warrant
    - 5<sup>th</sup>
      - Four protections for those accused of crimes
        - grand jury indictment for serious crimes(felonies)
        - protection from double jeopardy
        - can't self-incriminate
        - guaranteed due process of law
      - Eminent domain
        - power of government to take private property for public use
    - 6<sup>th</sup>
      - Five basic rights at trial
        - speedy, public, impartial trial by jury
        - informed of charges
        - right to hear and question witnesses
        - right to compel witnesses to testify
        - right to an attorney
    - 7<sup>th</sup>
      - right to settle all civil disputes of > \$20 by jury
        - now has been raised to \$1000
    - 8<sup>th</sup>
      - right to bail
      - protection from cruel and unusual punishment
    - 9<sup>th</sup>
      - all rights not included are “retained by the people”
    - 10<sup>th</sup>
      - All powers not given to the national government nor denied to the states are given to the states

11<sup>th</sup>

states are immune from certain civil litigation

12<sup>th</sup>

establishes one ticket for President and Vice-President

#### Civil War Amendments

13<sup>th</sup> – abolishes slavery

14<sup>th</sup> – protects right without “due process” at all levels of government

15<sup>th</sup> – protects right to vote regardless of race, color, or creed

#### 20<sup>th</sup> Century Amendments

16<sup>th</sup> – establishes national income tax

17<sup>th</sup> – provides for direct election of Senators

18<sup>th</sup> – establishes prohibition of alcohol

19<sup>th</sup> – women given right to vote

20<sup>th</sup> – lame duck amendment, changes inauguration from March 4<sup>th</sup> to Jan 20<sup>th</sup>

21<sup>st</sup> – repealed 18<sup>th</sup> amendment

22<sup>nd</sup> – limits president to two terms or 10 years in office

23<sup>rd</sup> – District of Columbia gains voting rights

24<sup>th</sup> – prohibits poll taxes

25<sup>th</sup> – establishes procedures for VP replacing disabled president

26<sup>th</sup> – lowers minimum voting age to 18

27<sup>th</sup> – Congress must stand for reelection before receiving salary increase

#### Informal Changes to Constitution

##### Clarifying Laws

judicial system was filled out by Congress

Pres. Washington established the Presidential Cabinet

##### Impeachment

process est. for Johnson, Nixon, and Clinton

##### Negotiation of foreign affairs

Executive agreements

Military powers of the presidency

##### Court ruling change over time

judicial review

- Supreme Court reviews constitutionality of laws  
activism vs. restraint