

## THE CONSTITUTION: A BRIEF OVERVIEW OF THE DOCUMENT

By Jim Jess

On September 17, 1787, thirty-nine men gathered in Philadelphia, Pennsylvania and signed the proposed Constitution of the United States. The result of four long months of discussions, debates, careful consideration, and compromises, the proposed Constitution was later ratified by the states and went into effect in 1789. Unequaled in success and longevity among modern constitutions, the U.S. Constitution has served this nation well for more than 200 years. One of the reasons for this is the simplicity of its design: less than 10,000 words in length, the U.S. Constitution defines the basic structure and powers of our federal government. Essentially, this is all that it does. The Constitution, in describing the functions of our government, does not attempt to settle all public policy questions once and for all. Rather, it provides a framework for successive generations to do this. The Constitution reflects the wisdom of its drafters in that it allows for change. The remarkable changes our nation has experienced over the last 200 years have not rendered the Constitution obsolete because of the rugged simplicity, wisdom and flexibility of the document.

### Seven Articles

The U.S. Constitution is composed of seven articles and twenty-seven amendments. The Preamble outlines six general purposes or objectives the Constitution seeks to fulfill. The first three words, "We the People," clearly establish the basis for the authority under which the Constitution must function.

**Article I** of the Constitution establishes the legislative branch of the government, the Congress, composed of the House of Representatives and the Senate. Representatives are elected by the people every two years from 435 districts within the fifty states. House districts are formed according to population. The Senate is composed of 100 members, two from each state, elected every six years by popular vote. One-third of the Senators are elected every two years. Until 1913, Senators were elected by the state legislatures.

Article I gives the qualifications for holding office in the House and Senate; standards governing elections; rules covering how the business of each house is to be organized; and an enumeration of the powers of Congress.

Congress is the lawmaking branch of our federal government. Congress is the only branch of government that can appropriate money; Congress has the exclusive power to tax; only Congress can declare war; and Congress alone has the power, constitutionally, to regulate commerce, therefore allowing a degree of governmental intervention in the economy. Even the President, who is thought of as being the most powerful participant in U.S. policy-making, must act, in most cases, with the consent of Congress. Every President certainly has an agenda he wishes to put in place; but only the Congress can enact a President's agenda.

**Article II** vests the executive power of the government with the President of the United States. The President is elected for a four-year term and may serve for two terms of office. Contrary to popular belief, the President is not elected by direct popular vote, but by the Electoral College, a mechanism put in place by the Founding Fathers. Actually, the Electoral College itself – which is not a college at all, but a group of individuals referred to as “electors” – does not usually play a pivotal role in the election of the President; but the formula for choosing electors does. The number of electors from each state is determined by adding the number of senators (two from each state) to the number of members of the House of Representatives (California, for instance, has more than fifty). It is on the basis of this formula that the President is elected today. (The electors still meet a month or so after the general presidential election to formalize the decision of the popular vote in the states, but they nearly always follow the popular vote in casting their ballots.)

The Constitution designates the President as the commander-in-chief of the Armed Forces of the United States. He also has the power to make treaties with other nations; but these treaties must be

ratified by a two-thirds majority vote of the Senate. The President has the power to appoint (with consent of the Senate) those who fill the highest offices of the executive and judicial branches of the U.S. government: Supreme Court justices, members of the President's Cabinet (e.g., Secretary of State, Secretary of Defense, etc.), all other federal judges, members of various independent agencies (e.g., Federal Reserve Board, Federal Trade Commission, etc.), and ambassadors to other nations.

The latter part of Article II requires the President to "give to the Congress Information on the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient." From this clause has arisen the President's annual State of the Union address and his consequent lobbying of Congress to enact his programs. Since the President cannot enact legislation himself, he only has three major constitutional avenues to advance his agenda:

1. His role in foreign policy matters by virtue of his position as commander-in-chief and chief foreign policy representative.
2. The power of appointment - to appoint those who will advance his programs.
3. His advocacy role whereby he recommends legislation and uses the powers of his office, his staff and advisors to promote his agenda.

**Article III** is concerned with the judicial branch of the U.S. Government. In six brief paragraphs, Article III lays down the basic standards by which the federal judiciary has operated for more than 200 years. Section 1 provides for the establishment of the Supreme Court and other federal courts that Congress deems necessary. Section 2 defines the jurisdictional authority of the federal courts, but also gives Congress the authority to limit the jurisdiction of the Supreme Court. Section 3 defines treason and sets standards for convictions of treason.

**Article IV** contains several general provisions regarding credit between states and privileges of citizens within the states and under the federal government. It provides for the admission of new states to the union and guarantees to every state a republican form of government, which is a representative form of government.

**Article V** provides for the proposing and ratification of amendments to the Constitution, and describes the processes that may be used to do so.

**Article VI** establishes the validity of debts against the U.S. that were debts prior to the ratification of the Constitution. This article also states that the Constitution and the treaties and laws made under it are "the supreme Law of the Land." The third and final paragraph of Article VI binds every public official in the United States to support the Constitution. However, no religious test is to be required as a qualification for office.

**Article VII** states that nine of the then thirteen states were needed to formally ratify the Constitution and place it into operation.

This is a basic outline of the original Constitution itself. Only twenty-seven amendments have modified and altered sections of this Constitution since its implementation.

## The Bill of Rights

The first ten of these amendments form what is best known as the "Bill of Rights." Among the most important of all the amendments, the Bill of Rights places limits on the authority of the federal government. Proposed by the First Congress of the United States and ratified in less than a year, the Bill of Rights was in part a promise to would-be opponents of ratification who said the Constitution should contain a statement of individual rights. At the time of its consideration by the First Congress, opponents of the Bill of Rights said that it might be used in the future to restrict other rights not specifically enumerated in the ten amendments. This might be a possible misuse of the Bill of Rights; but most

Americans would feel far less comfortable and be far less secure today if the Bill of Rights did not exist to protect us from potential abuses of power by the federal government.

Liberty seems far too precious in our time to not have a number of basic rights labeled, identified, and protected. The Bill of Rights protects freedom of worship, freedom of speech, freedom of the press, the right to peaceably assemble, the right to petition the government concerning grievances, the right to bear arms, the right to due process of law, the right to trial by jury, the right to confront witnesses and have witnesses on one's behalf, and the right to counsel. Several other rights and protections for individuals are covered in the Bill of Rights. Without it, many of these rights would have been quietly violated (and some not so quietly) many times over. Even today, one role of the courts is to protect individuals from subtle violations of these rights by the government.

The Constitution and the Bill of Rights are not difficult to understand. The entire Constitution can be read in fifteen or twenty minutes. You can find a copy of the Constitution and all of the amendments on this web site under "Important Documents and Speeches." Copies can also be obtained from any congressman or senator's office or any number of organizations that distribute them.

It's your responsibility as a citizen to know your rights and your duties and to understand how your government is supposed to work for you.

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