

# **The Constitution of the United States (1787)**

**James Madison, et al.**

## **Historical Background**

By the late 1780s, the United States, under the Articles of Confederation, was facing multiple threats. The weakness of the central government under the Articles caused numerous national failures. The national government was unable to make effective international agreements, provide enough revenue for the government, or restrict states from taking harmful actions against the economic interests of other states. These problems, along with a civil disturbance called Shay's Rebellion, led to a widespread sense that the Articles of Confederation needed improvement. Under the charge to reform the document so that it "could meet the exigencies of government and the preservation of the Union" the Constitutional Convention met in the summer of 1787. Instead of reforming or amending the Articles, however, the Constitutional Convention proposed an entirely new constitution and a method of ratifying the new constitution by state.

## **Historical Significance**

The Constitution of the United States is our single most important political document. The first written constitution in the world to set up a framework of government and to define its powers, the Constitution established the form and functions of all the major branches and offices of the federal government. Among the outstanding features of the document are the Preamble, which formally constitutes the United States as one people dedicated to certain ends or purposes; the division of the government by the first three Articles into a bicameral legislature, an executive branch headed by an elected president, and the federal judiciary; the complicated checks and balances that operate between the three branches; and the commerce clause and the necessary and proper clause, the latter two ideas having proven especially great sources of controversy. Especially after the addition of the first ten amendments or Bill of Rights in 1791, the constitution enshrines the idea of a government that derives its authority from the people and that is limited by those people's fundamental rights.

## **Key Concepts and Learning Objectives**

Concepts: checks and balances; bicameralism; separation of powers; constitutionalism; limited government; rights; elastic clause; civil rights; political rights; compromise; enumerated powers

Learning objectives: On completion of this unit, students will be able to:

- describe the division of the United States Federal Government into three branches and describe the relationships between the branches;

- give examples of how the constitution limits or checks the powers of each branch of government with powers granted to each of the other two;
- define “limited government” and describe how the United States Constitution creates a limited government, and give examples of things the government is not authorized to do;
- evaluate the Constitution to determine if contains implied powers or is only a list of enumerated powers;
- evaluate the Constitution and determine whether they would have approved the Constitution as it existed in 1787, without a Bill of Rights.

## Questions to Explore

Many other countries did not have a written constitution at the time of the Founding, and some, such as the United Kingdom, still do not possess one. Why should a country have a written constitution? Do you see any possible advantages in *not* having one?

When the Constitutional Convention realized that the Articles of Confederation needed to be replaced rather than amended, they pressed on even though they did not have formal authorization from the Congress to create a new constitution. Was this decision justified? Are there circumstances in which the rules or the law should not be followed so that the common good can be advanced? If so, how does one determine when these situations arise? What provision in the Constitution was designed to address the problem that it went beyond its authority, and do you think it sufficiently disposes of the problem?

The Constitution contains several compromises between different interests. Small states and large states compromised to create our current Congress, with one chamber with equal state representation (the Senate) and one with proportional representation (the House of Representatives). Do these compromises improve the plan or harm it? When is compromising “selling out on principles” and when is compromising an essential element of democratic government and decision-making?

The Constitution does not specifically use the words “slave,” “enslaved,” or “slavery”; however, several clauses in the Constitution implicitly address slavery, the most famous of which being the “Three-Fifths Clause.” What are the best arguments that might be made for and against the Constitution’s implicit acceptance of slavery? How serious a flaw is it, in your view? Why do you think the Framers avoided using the term “slavery”?