

The Political System of the USA

- Material 1: The Constitution -

M1 "We the People..."

"We the People..." – these are the famous first words of the Constitution of the United States of America. The document was signed on September 17, 1787, by delegates to the Constitutional Convention in Philadelphia, presided over by George Washington, and ranks among the oldest democratic constitutions still effective today. In the more than 200 years of its existence, it only had to be amended by 27 articles - the so-called amendments to the Constitution - in order to adjust the Constitution to the challenges and needs of modern America. To this day, its principles form the unchangeable base upon which the political system of the USA is founded. With the text



Signing of the US Constitution
on September 17, 1787

of the Constitution, the Founding Fathers succeeded in uniting several aims. On the one hand, they rejected the absolutistic model of rulership as it was common in 18th century Europe, and gave the power to the people. Instead of an autocrat by the grace of God, the will of every single citizen was seen as the source of all public leadership. On the other hand, the Founding Fathers laid the foundations for the people to transfer its power to the state and its representatives for a limited period. To prevent an abuse of power, the Constitution distributed the authority of the state into a legislative, an executive and a judiciary branch of power. With a cleverly-designed system of checks and balances, the Founding Fathers made sure that the three different branches of power were able to control and curb each other. And finally they laid down how a confederation of thirteen sovereign individual states should become a strong federal state, the "United States of America". Until today, this association of different principles is regarded as exemplary and made the "Constitution" an example for a number of other constitutions to be modelled on.

M2 History and evolution of the US Constitution

The Seven Years' War, (1754 to 1763) saw a tough struggle between the colonial powers Great Britain and France for the supremacy on the North-American Continent. The thirteen British colonies fought this battle alongside their motherland and, with their own troops, went towards defeating the



George Washington crosses
the Delaware (Dec. 26, 1776)

French and their allies. Nevertheless, after the Paris peace agreement of 1763, the British government disregarded the colonists' wish for more voice and autonomy. Instead, it tried to compensate the costs of the war through new taxes and tributes for the colonies. The tensions between the British motherland and the American colonies continuously increased in the years to follow and finally resulted in the American Declaration of Independence from July 4, 1776. What followed was a multi-year war of independence, in which the United States, after some early defeats, could prevail and force the British troops to

withdraw from America. In the peace of Paris in 1783, Great Britain finally acknowledged the independence of its former colonies. Together with the disengagement from the British motherland, its laws and regulations lost their validity in the colonies. Exactly like the government structures, they had to be replaced by new regulations. With the "Articles of Confederacy", the thirteen individual states

had given themselves a constitutional bedrock as early as in November 1777. But this only intended a loose confederation of states in which the members remained sovereign states and where the weak central government had only little power. Under the consequences of the war of independence, this model soon proved to be insufficient. Therefore, on May 25, 1787, a constitutional convention in Philadelphia, to which all member states – except Rhode Island – had sent their representatives, set to work. Originally, the mission of the "Philadelphia Convention" was only a reworking of the "Articles of the Confederacy". However, the fifty-five delegates, among them George Washington, Benjamin Franklin and Alexander Hamilton, quickly dropped the plan and, instead, decided for an all new draft constitution. The constitutional convention was holding its closed session for nearly four months. The aim of the convention was to unify the interests of the extremely different individual states and to consolidate them under the umbrella of a federal state. Different models for a constitution were discussed and scrapped again and fierce debates about the distribution of responsibilities between the individual states and the central government flared up. The convention also had long arguments about the form of government: Should it be a single person or a multi-member body? The delegates finally agreed upon a compromise draft that was signed on September 17, 1787. In his final speech, Benjamin Franklin said: *"Thus I consent to this Constitution because I expect no better, and because I am not sure that it is not the best."* On March 4, 1789, the US Constitution became law.



M3 Article I: The legislative

Article I of the US Constitution deals with the lawgiving power, the legislative. Its first section reads: *"All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."*



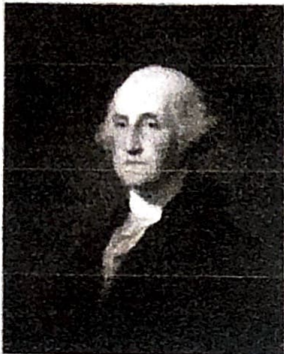
The Federal Hall in New York,
until 1790 home to the 1st Congress

In the other sections, the article elaborates which requirements the members of both chambers of Congress have to fulfil, how they are elected and which rights are given to Parliament. Both, delegates of the House of Representatives and of the Senate, have to attest a permanent residence in the state they represent in Congress. The former have to be at least 25 years old and to be American citizens for at least seven years. From the latter the Constitution requires a minimum age of 30 years as well as an at least nine-year citizenship. The delegates of the House of Representatives are to be elected directly by the people every two years. For this purpose, the states are divided into electoral constituencies relative to their population numbers. Every ten years, a population census determines how many constituencies each state is allocated. The candidate who gets the majority of votes becomes the delegate of a constituency. By contrast, the Constitution provides for a graduated voting procedure for senators: Every two years, a third of the members of the Senate are elected. Thus, each Senator has an office term of six years. Each state is represented in the Senate with two seats. Until 1913, the Senators were elected indirectly by the Parliaments of the individual states. The 17th amendment finally introduced a direct election by the people. Article 1 of the Constitution also explicitly implements the powers and limitations of Congress. As rights reserved for Parliament only, Section 8 mentions, for example, the budget and fiscal law, the right of coinage, the right to declare war or the right to maintain an army. Section 9, however, forbids Congress to put a ban on immigration into the USA, to allow a sentence without trial or to burden individual states with taxes and tariffs on exported goods.

M4 Article II: The Executive

Article II of the Constitution describes the executive power. Its first section reads: *"The executive Power shall be vested in a President of the United States of America."*

Article II grants the US president far-reaching authorities as head of state and head of government in



George Washington, first US President (1789–97)

one person, but at the same time it determines the requirements and limitations of the office. Presidential candidates have to be at least 35 years of age and have to be US-born. Only those who can show a residence in the US from fourteen years back are allowed to the candidacy. The election itself proceeds in an indirect two-level mode. First, each state defines as many electors as the particular state is due to have delegate seats and senate seats in Congress. At the beginning, this occurred through the different Parliaments, since 1824 by means of general elections. As it was declared in the 12th amendment of 1804, the electors meet in their states and cast two different votes, for a president and a vice president. The candidates who can acquire the most votes are elected into the two offices. Due to Article II, Section 2, the president is commander-in-chief of the US military forces. He is entitled to conclude international treaties in the name of the United States of America if the Senate agrees

with a supermajority. Moreover, with the consent of the Senate, he appoints ambassadors, officials and the US Supreme Court Judges. From time to time, the president has to report Congress about the state of the union. A president's term is four years. Since the 22nd amendment, he can only be re-elected once. If a president dies, steps down or is found unfit to execute his office, the vice president takes over the presidency. The Constitution of 1787 also provides for the possibility of an impeachment of the president or vice president. If they are accused of treason, corruption or other crimes and found guilty, they have to resign from office.

M5 Article III: The judiciary

In Article III, the US Constitution deals with the judicial power, the judiciary. The first section of the article reads: *"The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish."*

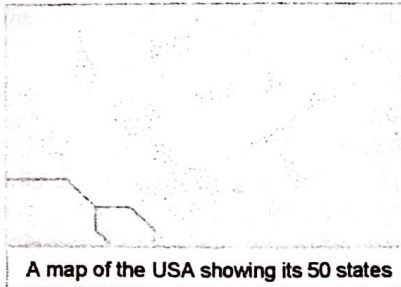
The Supreme Court judges are appointed by the president with the Senate having to agree. Under the first section of Article III, they are appointed for life. Only serious misconduct in office can be a reason for suspension by Congress. Furthermore, section 2 of the article defines which areas the judiciary of the state actually spans. In addition to legal disputes due to the Constitution and the laws and treaties of the United States, also cases in which the USA itself is party to the dispute or two or more states confront each other, belong to the judiciary powers. These lawsuits fall under the jurisdiction of the lower federal courts. On rare occasions only, the Supreme Court acts as the trial court. As a court of appeal, it usually checks verdicts already enacted in other federal courts for errors of law or errors of fact. The judicial system of the individual states remains responsible for all fields of law not mentioned in section 2, especially civil and criminal cases. Thus the Constitution rules that a criminal process has always to be held in the state in which the particular crime has been committed. The trial has always to be held as a jury court.



The present home to the Supreme Court in Washington, D.C.

M6 Article IV: Federalism

Article IV of the US Constitution deals with the relations of the individual states among each other and specifies their relation to the federal state. Section 1 of the article reads: *"Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State."*



A map of the USA showing its 50 states

The ruling in section 1 of the article ensures that each US citizen has to observe the laws and regulations of the state in which he or she is living. Section 2 – modified by the 14th amendment of 1868 – also determines that no individual state is allowed to pass laws reducing the liberties of US citizens. Thereby, the discrimination of citizens from other US states is not allowed. Article IV also rules the admission of new individual states into the federal state. Congress can only approve such an extension of the USA if the new state is not established within the jurisdiction of another state. In section 4, the federal government

finally guarantees each state a Republican form of government and commits itself to protect the states against incursions from outside or, on their demand, against threats from within.

M7 The Amendments

Since taking effect on March 4, 1789, the US Constitution has been amended by 27 amendments. The last amendment so far, dealing with the pay increase of the members of Congress, became an official part of the Constitution on May 18, 1992. In order to keep the wording of the seven original articles of 1787, the procedure has always been to add the amendments and changes at the end of the original text. Current issues of the Constitution specifically mark those sections of the original text that were superseded or replaced by amendments. Thus the readability of the Constitution is ensured forever.

The reasonable number of amendments shows how universal and adjustable the Founding Fathers had phrased the US Constitution. Although the United States of today differs fundamentally from the late 18th century USA, a few changes were enough to adjust its basic constitutional framework to the needs of the nation. This is possible because the US Supreme Court, in its leading decisions which are binding for other courts, can interpret the text of the Constitution in view of each political, social and economic circumstance, without a formal constitutional revision to be required.