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CONSTITUTIONAL LAW

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CONSTITUTIONAL LAW: AN OVERVIEW

The broad topic of constitutional law deals with the interpretation and implementation of the [United States Constitution](#). As the Constitution is the foundation of the United States, constitutional law deals with some of the fundamental relationships within our society. This includes relationships among the states, the states and the federal government, the three branches (executive, legislative, judicial) of the federal government, and the rights of the individual in relation to both federal and state government. The area of [judicial review](#) is an important subject within Constitutional Law. The Supreme Court has played a crucial role in interpreting the Constitution. Consequently, study of Constitutional Law focuses heavily on Supreme Court rulings.

While the topic also covers the interpretation and implementation of state constitutions, without qualification it is usually understood as referring to the Federal Constitution.

The Constitution establishes the three branches of the federal government and enumerates their powers. Article I establishes the House of Representatives and the Senate. See [U.S. Const. art. I](#). Section 8 enumerates the powers of Congress. See [U.S. Const. art. I, § 8](#). Congress has specifically used its power to regulate commerce (the commerce clause) with foreign nations and among the states to enact broad and powerful legislation throughout the nation. The sixteenth Amendment gives Congress the power to collect a national income tax without apportioning it among the states. See [U.S. Const. amend. XVI](#). Section 9 of Article I prohibits Congress from taking certain actions. See [U.S. Const. art. I, § 9](#). For example, until the passage of the 16th Amendment Congress could not directly tax the people of the United States unless it was proportioned to the population of each state. See [U.S. Const. art. I, § 9](#). Section 10 of Article I lists a number of specific actions that individual states may no longer take. [U.S. Const. art. I, § 10](#).

Article II of the Constitution establishes the presidency and the executive branch of government. The powers of the President are not as clearly enumerated as those of the Congress. He is vested with the "executive" power by section 1. See [U.S. Const. art. II, § 1](#). Section 2 establishes him as the "[commander in chief](#)" and grants him power to give pardons, except in cases of impeachment, for offenses against the United States. See [U.S. Const. art. II, § 2](#). Section 3 provides the power to make treaties (with the advice and consent of two-thirds of the Senate) and the power to nominate ambassadors, ministers, Judges of the Supreme Court, and all other Officers of the United States. See [U.S. Const. art. II, § 3](#).

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The role of the Supreme Court and the rest of the judicial branch of the federal government is covered by Article III. See [U.S. Const. art. III, § 2](#).

Article V of the Constitution provides the procedures to be followed to amend the Constitution. See [U.S. Const. article V](#). Currently, the Constitution has been amended twenty-seven times (including the Bill of Rights).

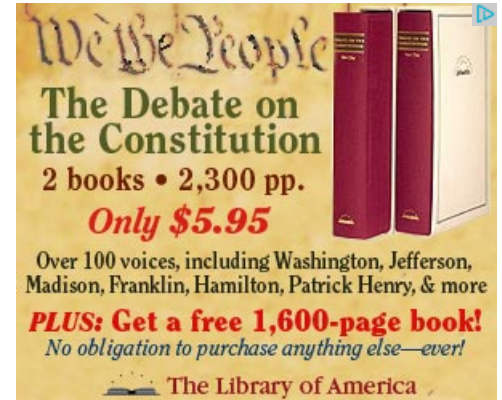
Article VI of The United States Constitution states that the "Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all treaties made or shall be made, under the Authority of the United States, shall be the Supreme Law of the Land." See The Supremacy Clause: U.S. Constitution, [art. VI, § 2](#). Furthermore, all federal, state, and local officials must take an oath to support the Constitution. This means that state governments and officials cannot take actions or pass laws that interfere with the Constitution, laws passed by Congress, or treaties. The Constitution was interpreted, in 1819, as giving the Supreme Court the power to invalidate any state actions that interfere with the Constitution and the laws and treaties passed pursuant to it. That power is not itself explicitly set out in the Constitution but was declared to exist by the Supreme Court in the decision of [McCulloch v. Maryland](#).

The first section of the fourth article of the Constitution contains the "full faith and credit clause." See [U.S. Const. art. IV, § 1](#). This clause provides that each state must recognize the public acts (laws), records, and judicial proceeding of the other states. The Fourth Article also guarantees that a citizen of a state be entitled to the "privileges and immunities" in every other state. See [U.S. Const. art. IV, § 2](#).

The power of the federal government is not absolute. The tenth Amendment specifically states that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." See [U.S. Const. amend. X](#).

Specific provisions of the Constitution protect the rights of the individual from interference by the federal and state governments. The first ten amendments, called the Bill of Rights, were ratified in 1791, providing a check on the new federal government. See [The Bill Of Rights: U.S. Const. amendments I – X](#). The first eight amendments provide protection of some of the most fundamental rights of the individual. For example, the First Amendment protects the fundamental civil rights of free speech, press and assembly. See [First Amendment Rights](#). Subsequent amendments have also broadened the protection afforded the rights of the individual. The Thirteenth Amendment made slavery illegal. See [U.S. Const. amend. XIII](#). The Fourteenth Amendment prohibits the states from abridging "the rights and immunities" of any citizen without due process of law. See [U.S. Const. amend. XIV](#). The Supreme Court has interpreted the "due process" clause of the Fourteenth Amendment as affording citizens protection from interference by the state with almost all of the rights listed in the first eight amendments. The exceptions are the right to bear arms in the Second Amendment, the Fifth Amendment guarantee of a grand jury in criminal prosecutions, and the right to a jury for a civil trial under the Seventh Amendment. The Fourteenth Amendment also guarantees the equal protection of the laws. See [Equal Protection](#). The right to vote is protected by the 15th Amendment ("right to vote shall not be denied... on account of race."), the Nineteenth Amendment (guaranteeing the right to vote regardless of sex), and the 24th Amendment (extending the right to vote to those who are 18 years of age). See U.S. Const. Amendments [XV](#), [XIX](#), and [XXIV](#).


See also [judicial review](#), [separation of powers](#), [federalism](#).



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