

4 A Living Document

Section Focus

Key Terms Founding Fathers ■ judicial review ■ elastic clause ■ Cabinet ■ senatorial courtesy ■ executive privilege

Main Idea For 200 years the Constitution of the United States has allowed government to adjust to the nation's growth and changing needs.

Objectives As you read, look for answers to these questions:

1. How does the Constitution provide for change?
2. What has been the role of the courts toward the Constitution?
3. What has made the Constitution a flexible instrument of government?

During the sessions of the Philadelphia Convention, delegates knew that they were making decisions as much for posterity as for their own times. As James Wilson said, "We should consider that we are providing a Constitution for future generations, and not merely for the peculiar circumstances of the moment." Madison added, "In framing a system which we wish to last for ages, we should not lose sight of the changes which ages will produce."

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The **Founding Fathers**—the delegates to the Constitutional Convention—would be pleased to know the Constitution has been the law of the land for two centuries. It has survived longer than any other written constitution.

Yet in two centuries the United States has changed. And it has changed in ways that the Founding Fathers could not imagine. In their day, travel depended on animal power and sail. How could they have pictured a nation bound together by instant communication? How could they have imagined airplanes or spaceships? How could they have foreseen a time when Philadelphia alone would have more people than all the United States in 1789?

Yet the Constitution endures. In the words of historian Richard B. Morris, "The Constitution is

the mortar that binds the fifty-state edifice under the concept of federalism: it is the symbol that unifies nearly 250 million people of different origins, races, and religions into a single nation."

CHANGE THROUGH THE AMENDMENT PROCESS

One way the Constitution has adapted to changing times is through the amendment process. The Constitutional Convention purposely provided for such changes. Two-thirds of each house of Congress or two-thirds of the state legislatures can propose an amendment. To become law, a proposed amendment then needs the approval of three-fourths of the states. By this process the Bill of Rights became the first Ten Amendments in 1791. Since then sixteen more amendments have been added to the Constitution.

Some of these amendments provide for changes in the way the President, Vice President, or Senate are selected. United States senators are now elected by the people, not the state legislatures. A President can serve no more than two terms. Other amendments have reversed Supreme Court rulings. The Sixteenth Amendment, for instance, provides for a federal income tax. Earlier, the Supreme Court had declared such a tax unconstitutional.

A handful of amendments deal with an issue avoided by the Founding Fathers—the statement in the Declaration of Independence that all men are created equal. Equality is not mentioned either in the Constitution or in the Bill of Rights. But over time the force of events and public opinion have pushed the Constitution toward a broadened concept of equality under law. Amendments

CHANGE THROUGH CUSTOM

George Washington understood that government is more than a body of written law. "Time and habit are . . . necessary to fix the true character of governments," he said.

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Tradition and custom have thus influenced how government has changed in two centuries. Some customs have become so much a part of our government that they are sometimes called the "unwritten Constitution." The Constitution, for instance, says nothing about political parties. Yet they are a key part of our elective system.

The Constitution also does not provide for a **Cabinet**, the President's formal group of advisers. These advisers are heads of the various departments within the executive branch. As such, they exercise some of the powers assigned by the Constitution to the President.

Time has given rise to another custom. This is the practice of **senatorial courtesy**. Presidents now routinely consult with the senators of the same political party before appointing federal officials in their home state.

Yet another example of custom is **executive privilege**. Based on the principle of separation of powers, executive privilege is the right of the President to refuse to appear before a congressional committee.

New habits develop with time. But changing times, in turn, can create the need for new habits and new laws. Americans currently face a range of unresolved constitutional issues, including such questions as: Has the national government become too powerful? Is the judicial branch too powerful? Should the Constitution provide economic security for Americans? Has the President assumed too much power over war-making? Americans will have to deal with these issues and others as they work out their destiny.

Despite rapid change in American society and the world as a whole, the Constitution provides a set of goals that are unchanging. Inspired by its ideals and guided by its wisdom, the American people will continue their efforts to "form a more perfect union."

SECTION REVIEW

- 1. KEY TERMS** Founding Fathers, judicial review, elastic clause, Cabinet, senatorial courtesy, executive privilege
- 2. COMPREHENSION** How has the amendment process brought about constitutional change?
- 3. COMPREHENSION** What was the constitutional significance of *Marbury v. Madison*?
- 4. COMPREHENSION** How has Congress achieved powers not specifically assigned to it by the Constitution?
- 5. CRITICAL THINKING** Did the adoption of the Constitution of 1787 complete the American Revolution? Why or why not?

CHAPTER 5 TIMELINE

