

Constitutional Law: Principles and Practice

Introduction to Constitutional Law

Chapter 1

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A Brief History of the U.S. Constitution

- Reasons for a federal government in the mid-1700s:
 - Territorial conflicts between French and English colonists
 - French and Indian War; Revolutionary War
- The U.S. Constitution:
 - Drafted in 1787 and ratified by the states in 1789
 - Written to prevent the new government from abusing power
 - Influenced by earlier documents:
 - Magna Carta and English Bill of Rights of 1689
 - Declaration of Independence
 - Articles of Confederation

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Magna Carta & English Bill of Rights of 1689

- Magna Carta (1215)
- English Bill of Rights (1689)
- Both documents
 - Responded to abuses of royal power
 - Limited the authority of the king

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Declaration of Independence

- Signed in 1776 as a response by American colonists to England
- Governments are formed to secure the rights of life, liberty, and the pursuit of happiness.
- Governments derive their power from the people who are governed.
- Abuse of power by a government justifies changing the government.

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Articles of Confederation

- Ratified in 1781 to form a national government
- Left most of the true governing power to the states
- Major problems included:
 - No effective way of collecting state taxes
 - Unanimous votes required for amendments

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The Constitutional Convention

- Signed in 1787 by representatives of 12 states
 - Created a bicameral (two-house) legislature
 - Counted slaves as three-fifths of a person
- Constitution supporters were known as federalists.
- Bill of Rights, ratified in 1788:
 - Contained 10 amendments to the Constitution
 - Limited government power
 - Guaranteed certain basic rights and freedoms to the people

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The United States Constitution

- The Preamble
- The body of the document
- The 27 amendments to the original document

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The Constitution and Case Law

- Case Law
 - Found in published opinions deciding actual disputes that have been heard in court
 - Does not arise unless the decision of the trial court is appealed
- An opinion from the Supreme Court always becomes law.

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Types of Opinions in Case Law

- Majority opinions
- Plurality opinions
- Concurring opinions
- Dissenting opinions

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The Constitution and Other Sources of U.S. Law

- In the U.S. legal system, laws come from:
 - The Constitution
 - Statutes
 - Case law
- The U.S. Constitution is supreme.