

# The American Constitution

## Essential vocabulary

- *Congress*..... le Congrès
- *a Congressman / a Congresswoman*.. un membre du Congrès
- *the House of Representatives*..... la Chambre des représentants
- *the Senate*..... le Sénat
- *checks and balances*..... freins et contrepoids, verrous et contrepoids
- *to legislate*..... légiférer
- *a lawmaker*..... un législateur
- *to sponsor a bill*..... introduire un projet de loi
- *a decree*..... un décret
- *to amend*..... amender
- *to provide*..... stipuler, prévoir
- *to veto*..... mettre son veto sur
- *to petition*..... déposer une demande, une requête, auprès de
- *to repeal*..... abroger
- *to impeach*..... mettre (le président) en accusation
- *to sue sbdy*..... poursuivre quelqu'un en justice
- *to rule*..... juger
- *to enforce the law*..... faire appliquer la loi
- *to infringe on*..... porter atteinte à
- *to come into force / effect*..... entrer en vigueur

## Introduction

---

The Declaration of Independence (1776) and the Constitution (1787) are the two most fundamental texts in the history of the United States.

Before **laying out** the basic principles of government, all political ties between the American colonies and Great-Britain needed to be **severed**, hence the Declaration of Independence; only then could a federal Constitution for all Americans be **drafted**.

However, before adopting the Constitution, the thirteen states ratified on March 1, 1781 the Articles of Confederation, which created a loose association of states with a central government. As a matter of fact, that entity was soon deemed too weak since most of the power had been placed in the hands of state governments – in other words, there was virtually no executive. **The Framers** realized that a stronger federal government was necessary, and the Constitutional Convention was held in 1787, which led to the Constitution being drafted.

Although the Constitution has been altered over centuries, it has **stood the test of time**: the Framers believed that its brevity was a way to guarantee its longevity. In the early 19<sup>th</sup> century, Chief Justice John Marshall wrote that the Constitution had been devised “to endure for ages to come”.

Besides, the Framers made sure that the Constitution would remain flexible, by allowing it to be changed through the amendment process. Article V of the Constitution **provides** that amendments must pass both houses of Congress with a 2/3 majority, then be ratified by three-fourths of the state legislatures.



### Vocabulary

- *to lay out*: exposer
- *to sever all ties with*: rompre tout lien avec
- *to draft*: rédiger
- *to stand the test of time*: résister au passage du temps
- *to provide*: stipuler, prévoir



### Writing tips

- ▶ **As a matter of fact,...** : à vrai dire, en fait.
- ▶ **L'emploi d'une date** dans un récit au passé contraint à utiliser le prétérit (ici “was held in 1787”). Autres repères temporels qui contraignent à employer le prétérit: yesterday, last week, toutes les formules avec ago, during, after, before, then, afterwards, later, conjonctions when, while, after, before + verbe...



### Complementary information

- ▶ The term “Framers” refers to the 55 delegates from 11 of the 13 colonies who attended the 1787 Constitutional Convention in Philadelphia and who crafted – or “framed” – the text that was to replace the Articles of Confederation. The most prominent figures among the Framers were Benjamin Franklin, Alexander Hamilton, John Adams, John Jay, Thomas Jefferson, James Madison, and George Washington – who presided over the Convention.

## Content of the Constitution

---

The Constitution is divided into three parts: the preamble, the articles and the amendments.

The Preamble of the Constitution reaffirms the sovereignty of the American people – who is the source of all power – and **encapsulates** the values and principles that guided the Framers when drafting the Constitution. It reads as follows:

*“We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.”*

The body of the American Constitution is composed of 7 articles. The first article is legislative; it states that the Congress is bicameral – that is to say, composed of the Senate and the House of Representatives. Article 2 describes

both the roles of the President and of the Vice-President: the President is Head of State (from a military, judicial and diplomatic point of view) and Head of Government. He is Commander in Chief of the Army, and he shares the power with the Senate as far as **appointments** are concerned. He can initiate legislation, and can bring the two houses together in a joined session. He is responsible for the execution of laws. Article 3 lays out the powers of the Supreme Court, which is in charge of controversies between citizens of different states, or controversies between states. The 9 judges of the Supreme Court are appointed for their lifetime by the President, but their nomination needs an approval by the Senate. Article 4 evokes the relationship between federal government and individual states, and establishes the basic principle of reciprocity between them. Article 5 discusses how the Constitution can be amended. Finally, article 6 establishes the national supremacy of the Constitution – “the Supreme Law of the Land”.



### Vocabulary

- *to encapsulate*: résumer, incarner
- *an appointment*: une nomination



### Writing tips

- **in order to + infinitif** exprime le but (afin de).
- **“both” + N** indique une caractéristique commune entre les deux éléments considérés comme indissociables. À ne pas confondre, donc, avec “the two”, qui a une valeur purement comptable et marque une dissociation.

## The Bill of Rights

---

The Antifederalists feared that the national government might become too powerful and infringe on the liberties won in the Revolution. They called for a “Bill of Rights” that would list the inalienable freedoms and rights of the American people; the ten amendments which make up the so-called “Bill of Rights” were therefore passed by the Congress on September 25, 1789 then ratified on December 15, 1791; they became a **cornerstone** of American

freedom. Nowadays, the Constitution comprises 27 amendments; the Civil Rights Amendments (13, 14, 15) deal with the issue of National Citizenship, while Amendments 12, 20, 22, 25, modify Article 2.

To give but a few examples, the First Amendment guarantees freedom of religion, freedom of the press and freedom of speech, the right to assemble and freedom to petition the government to right wrongs; the Second Amendment establishes the right to keep and bear arms, and the Fourth protects US citizens against “unreasonable searches and seizures”



### Vocabulary

- *to petition*: déposer une demande / une requête, auprès de
- *cornerstone*: pierre angulaire



### Writing tips

- **Le verbe “fear”** entraîne l’emploi du **subjonctif**. Autres constructions: “pour que... ne... pas...” (de peur que) = (just) in case OU for fear (that) + subjonctif ou might ou should.
- **Should / ought to**: “ought to” exprime une obligation morale, pression exercée sur quelqu’un. Il est plus formel que “should”, qui, lui, marque plutôt l’expression d’un point de vue personnel. Ought to est un semi-modal: à la différence d’un modal, il est suivi de TO, mais comme un modal, sa forme ne change pas selon la personne employée: I ought to phone my parents / It ought to be easy now.

## Federalism and the separation of power

---

In 1787, the federal government was created. The argument of the Federalists was that a federal government would be stronger; they defended this idea in the well-known **Federalist Papers**. Yet the states demanded that powers be delegated to them. The American system is thus based on a dual sovereignty: the power is shared by the state governments and the federal government. The separation of power is the second basic component of the federal govern-

ment; this principle is explained in the Federalist Paper n°70, and in the very text of the Constitution as well. The Founding Fathers had read Montesquieu and believed that the 3 powers (executive, legislative, judiciary) should not be **vested** in the same person; they thought a separation of powers was the best way to limit abuses, to protect the country from tyranny and thus to guarantee Republican liberty. The **core** idea of the system of checks and balances was that no branch of government should be able to get too far out of control without being put in check by the others. Therefore, under the system of checks and balances, each branch of government has the means to participate in and obstruct the functioning of the two other branches. For instance, the House of Representatives may impeach the President. The Congress also controls **appropriations**, that is to say votes the budget. Concretely, despite the president being commander-in-chief of the armed forces, giving him an incredibly powerful position in times of war, only Congress has the power to fund wartime expenses. The executive branch can veto legislation passed by Congress, but also call a special session of Congress. It checks the judiciary by appointing federal judges (Supreme Court justices); finally, it can pardon federal crimes. The judiciary can issue or refuse to issue search warrants and declare presidential acts unconstitutional. It is therefore a reciprocal system. However, the balance has been **disrupted**: if throughout the 19<sup>th</sup> century the legislative branch had more power and Congress was preeminent, the president has gradually taken on more power since FD Roosevelt's time in office.



### Vocabulary

- *vested*: investi
- *core*: central(e)
- *to override*: rejeter, annuler
- *appropriation*: dotation, crédits
- *to check*: contrôler
- *disrupted*: perturbé



### Writing tips

- ▶ **Le subjonctif présent** s'emploie, comme ici (“demanded that powers **be delegated**”) après des verbes ou expressions exprimant un ordre, une suggestion, une nécessité. Autre possibilité: emploi de *should* + BV :  
→ *He requested that she should be on time.*
- ▶ **despite / in spite of**: en dépit de.



### Complementary information

- ▶ The Federalist Papers were a collection of 85 essays published anonymously in New-York newspapers from 1787 to 1788 under the pseudonym “Publius” and promoting the adoption of the new Constitution. The series also outlines key constitutional principles – federalism, separation of powers, checks and balances – and as such, it provides an insight into the purposes of the Framers when they drafted the Constitution; it remains today the best tool to understand and interpret the founding text.

## The Supreme Court

---

It is the highest court in the federal system, and was created by Article III of the US Constitution. It consists of **one Chief Justice and 8 Associate Judges** appointed for life by the President. The Supreme Court has the power of judicial review: its task is to determine whether an act is **in keeping with** the Constitution. Supreme Court justices are the ultimate guardians and interpreters of the founding document. The Supreme Court is first and foremost an **appellate court**: its mission is to rule on cases that have already been examined in lower courts, and the judges can either choose to **uphold** or to **strike down** a previous decision. The Supreme Court’s interpretation of the Constitution has been instrumental in expanding the civil rights of American citizens. Key rulings include: *Brown v. Board of Education* (1954; provided for school desegregation), *Roe v. Wade* (1973; legalized abortion), *Lawrence v. Texas*, (2003; struck down laws that stigmatized homosexuals) or *Obergefell v. Hodges* (2016; declared same-sex marriage legal).

There has always been a debate about how to best interpret the Constitution; a narrow reading of the text is called strict constructionism or originalism: strict constructionists believe that the intentions of the Framers should be respected and the founding text read to the letter. The Supreme Court has sometimes been criticized for its judicial activism, that is to say for seeking to advance a social justice agenda.



### Vocabulary

- *in keeping with*: conforme à, qui correspond à
- *appellate court*: cour d'appel
- *to uphold*: confirmer, maintenir
- *to strike down*: annuler, invalider



### Writing tips

- **in order for s.o to do sth / in order to do sth.**
- Notez que **“likely” et “unlikely”** peuvent être suivis d'un verbe à l'infinitif (The reforms are unlikely to be carried out successfully), ou bien d'une proposition en THAT (It is likely that there will be a general election next year).



### Complementary information

- ▶ The current Chief Justice is Republican John Roberts; the Associate Justices are Stephen G. Breyer, Clarence Thomas, Ruth Bader Ginsburg, Samuel A. Alito, Neil M. Gorsuch, Sonia Sotomayor, Elena Kagan and Brett M. Kavanaugh.
- ▶ On July 9, 2018 President Donald Trump nominated staunch conservative Brett Kavanaugh to replace retiring justice Anthony Kennedy; shortly after the confirmation hearings began, Kavanaugh was accused by a Dr Christine Blasey Ford of sexually assaulting her in high school; yet, after further investigation by the FBI, Kavanaugh's nomination was eventually confirmed by the Senate in a 50-48 vote. Justice Anthony Kennedy was a centrist conservative who sometimes sided with the court's liberals, and Kavanaugh's nomination thus shifted the ideological leanings of the Court to the right — especially on issues such as abortion, gun rights or religious rights.