

Chapter 3: The Constitution

Section 3

Lecture Notes



AMERICAN
GOVERNMENT

PEARSON

► Objectives

1. Identify how basic legislation has added to our understanding of the Constitution over time.
2. Describe the ways in which the executive and judicial branches have interpreted the Constitution.
3. Analyze the role of party practices and custom in interpreting the Constitution.

▶ Key Terms

- **executive agreement:** a pact made by the President directly with the head of a foreign state
- **treaty:** a formal agreement between two or more independent states
- **electoral college:** the body of electors that makes the formal selection of the President

▶ Key Terms, cont.

- **Cabinet:** a body made up of the heads of the 15 executive departments that advises the President
- **senatorial courtesy:** the Senate custom of refusing to approve any presidential appointee unless that person has the support of all Senators from the appointee's home state who belong to the same party as the President

► Introduction

- How have the day-to-day workings of the government affected how we interpret the Constitution?
 - Congress passes new laws.
 - Presidents push to expand executive power.
 - The Supreme Court makes key rulings on constitutional issues.
 - Political parties influence the governing process.
 - Customs develop over time.

▶ The Role of Congress

- Congress has expanded upon basic constitutional provisions.
 - Congress created much of the specific structure of the federal government.
 - Congress established the federal court system—the Constitution created only the Supreme Court.
 - Congress created the many departments and agencies in the executive branch.
 - Congress has clarified issues such as the succession of the Vice President.

▶ Powers of Congress

- Congress passes laws that clarify its own constitutional powers.
 - The Constitution describes some congressional powers in vague terms.
 - For example, Congress has the power to regulate foreign trade and interstate commerce.
 - Over the years, Congress has passed thousands of laws that detail just what is meant by words like “regulate,” “trade,” “interstate” and “commerce.” In the process, it has interpreted the meaning of the Constitution.

▶ Expanding Executive Power

- Presidents have increased their constitutional powers by taking a broad interpretation of such powers.
 - Often this involves avoiding the need to gain congressional approval.
 - For example, only Congress can declare war. But while acting as commander-in-chief, many Presidents have sent military forces into combat without a formal act of war.
 - The Senate must approve formal treaties. But Presidents can and do enter into legally binding executive agreements with foreign leaders without asking for Senate approval.

▶ Presidential Power

- The Constitution grants the President **“executive power.”**
 - Most Presidents argue that this power includes the authority to do things not specifically mentioned in the Constitution.
 - For example, Thomas Jefferson used it as a justification for acquiring new territory for the United States when he purchased the Louisiana Territory in 1803.

▶ The State of the Union

- While an address to Congress is required by the Constitution, the method of address is left to each President.
 - Harry Truman's State of the Union was the first televised address.
 - Today, the State of the Union is an annual televised address to Congress and all Americans.



▶ The Courts

- The nation's courts, particularly the Supreme Court, **interpret the Constitution** on a regular basis.
 - The power of judicial review gives the Court the power to declare laws unconstitutional.
 - Declaring that a law *is* constitutional also involves interpreting the Constitution.
 - Each type of ruling sets a precedent for interpreting future laws.

▶ Political Parties

- The Constitution does not mention political parties.
 - Most of the Framers actually opposed parties, fearing they would divide the government.

► Political Parties, cont.

- Yet parties are very influential in our political process.
 - The daily business and the committee system of Congress are organized around party membership.



▶ Political Parties, cont.

- Checkpoint: How have political parties changed the way we interpret the Constitution?
 - The Constitution says nothing about the nomination process.
 - Political parties use state primaries and national conventions to choose candidates.
 - Parties also influence the selection of electors to the electoral college.
 - Party membership also influences the President's decision-making process when choosing political appointees.

- Unwritten customs can be as influential as written laws.
 - The President’s Cabinet exists solely as a result of custom rather than any laws.
 - The custom of senatorial courtesy guides the appointment of public officials.

► Customs, cont.

- Ever since George Washington, Presidents had limited themselves to two terms in office.
- After Franklin Roosevelt was elected to four consecutive terms from 1932 to 1944, the **two-term limit** was made into law by passage of the 22nd Amendment in 1951.

▶ Customs, cont.

- Checkpoint: Which customs did the 22nd and 25th Amendments establish as laws?
 - For years, the Vice President assumed the office of the presidency when the President died.
 - But this was not a formal law until ratification of the 25th amendment in 1967.

► Review

- Now that you have learned how the day-to-day working of the government have affected how we interpret the Constitution, go back and answer the Chapter Essential Question.
 - How has the Constitution lasted through changing times?