

## **US Constitution – Definition of Terms**

### **Articles of Confederation**

The first constitution of the thirteen United States of America, written in 1777 and ratified by the states in 1781. It provided a legal symbol of their union by giving the central government no coercive power over the states or their citizens.

### **Checks and Balances**

A system of limits imposed by the Constitution of the United States on all branches of a government by giving each branch the right to change or cancel the acts of another branch that fall within its jurisdiction. This separation of powers means that each branch of the state has separate and independent powers and areas of responsibility.

### **Connecticut Compromise**

An agreement between the large and small states reached during the Philadelphia Convention of 1787. It provided a compromise between the Virginia Plan, in favour of the large states, and the New Jersey Plan, which was in favour of the smaller plans. In effect this created a bicameral legislature. The lower house, as in the Virginia Plan, was to be allocated in proportion to state population and candidates would be nominated and elected by the people of the state. However, the upper house was more similar to the New Jersey Plan, and was to be allocated two seats to each state regardless of size or population, and elected by the State Legislature. This created the House of Representatives and the Senate.

### **Elastic Clause**

*'The Congress shall have Power - To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.'* The clause allows Congress some degree of flexibility in enacting legislation. It gives the Congress more power than what is stated in the Constitution. Example--the government has the power to collect taxes. But, the Constitution does not say where that money should be held. It was argued that the Elastic Clause gave Congress the power to establish a National Bank to hold the money. It allows Congress to pass laws that are needed as time changes. It was a point of much contention between those who favoured a loose reading of the Constitution and those who favoured a strict reading.

### **Delegated or Enumerated Powers**

Powers given to the federal government by the terms of the US constitution. Under Article II of the Articles of Confederation, the Confederation Congress's powers were limited to those explicitly granted by that document.

### **'Full Faith & Credit' Clause**

Article IV, Section 1 of the US Constitution, addresses the duties that states within the United States have to respect the 'public acts, records, and judicial proceedings' of other states. Basically, judicial decisions that are made in one state are recognized and upheld by other states. It also prevents someone from moving from another state to escape enforcement of a judgement.

### ***Gibbon vs. Ogden 1824***

Supreme Court decision that established that states could not interfere with the power of Congress to regulate interstate commerce. The state of New York had authorized a monopoly on steamboat operation in its waters, an action upheld by a state chancery court, but the Supreme Court ruled that competing steamboat operators were protected by the terms of a federal license to engage in trade along a coast. The decision, an important development in the interpretation of the commerce clause of the U.S. Constitution, freed all navigation from monopoly control.

### **Impeachment**

A formal accusation issued by a legislature against a public official charged with crime or other serious misconduct. In the United States impeachment of public officials is provided for in the federal government and in most states. In federal matters the U.S. Constitution gives the House of Representatives the power to impeach civil officers of the United States, including the President and Vice President, but not including members of Congress. Impeachments are tried by the Senate, with the concurrence of two thirds of the members present needed for conviction. The sole penalties on conviction are removal from office and disqualification from holding other federal office; however, the convicted party is liable to subsequent criminal trial and punishment for the same offence. There have been 16 impeachments tried by the Senate and seven convictions. Three of the best-known cases, which did not result in conviction, were those of Supreme Court Justice Samuel Chase, President Andrew Johnson, and President Bill Clinton. In 1974 the Judiciary Committee of the House of Representatives voted to bring impeachment charges against President Richard Nixon, but Nixon resigned before the House took action.

### **Implied Powers**

Powers not given to the government directly through the constitution, but are implied. These powers fall under the Elastic Clause in Section 8 of Article 1 of the U.S. Constitution. This document lets the government create "necessary and proper" programs/laws and retain them, such as creating the Air Force. The Air Force is an implied power because the constitution did not give the power of the Air Force to the federal government, because airplanes didn't even exist.

### **Judicial Review**

Specific courts with judicial review power must annul the acts of the state when it finds them incompatible with a higher authority, such as the terms of a written constitution. Judicial review is an example of the functioning of separation of powers in the US. In the United States, both federal and state courts are generally able to review the constitutionality of legislation that is relevant to any case properly within their jurisdiction. In American legal language, "judicial review" refers primarily to the adjudication of constitutionality of statutes, especially by the Supreme Court of the United States.

### **Horizontal Separation of Powers**

Separation of powers between the different branches of the federal government.

### **Line item veto**

A special form of veto in which the chief executive has the right to prevent particular provisions of a bill enacted by a legislative assembly from becoming law without

having to kill all the other parts of the bill at the same time. Many state governors in the United States have line-item veto power with respect to at least some kinds of legislative enactment. Presidents Nixon, Ford, Reagan, Bush, and Clinton have all endorsed the idea of granting the President line-item veto powers over appropriations bills as a means of controlling the budget deficit problem, but the President of the United States has only recently acquired a very limited line-item veto power through certain changes in the rules of the House of Representatives and Senate. In 1998, the U.S. Supreme Court ruled that even this limited form of line-item veto enacted by a simple Congressional majority was unconstitutional.

### ***Marbury vs. Madison, 1803***

A landmark case in United States law. It formed the basis for the exercise of judicial review in the United States under Article III of the Constitution. This case resulted from a petition to the Supreme Court by William Marbury, who had been appointed by President John Adams as Justice of the Peace in the District of Columbia but whose commission was not subsequently delivered. Marbury petitioned the Supreme Court to force Secretary of State James Madison to deliver the documents, but the court, with John Marshall as Chief Justice, denied Marbury's petition, holding that the statute upon which he based his claim, the Judiciary Act of 1789, was unconstitutional. *Marbury v. Madison* was the first time the Supreme Court declared something "unconstitutional," and established the concept of judicial review in the U.S. (the idea that courts may oversee and nullify the actions of another branch of government). The landmark decision helped define the "checks and balances" of the American form of government.

### ***McCulloch vs. Maryland, 1819***

The state of Maryland had attempted to impede operation of a branch of the Second Bank of the United States by imposing a tax on all notes of banks not chartered in Maryland. Though the law, by its language, was generally applicable, the U.S. Bank was the only out-of-state bank then existing in Maryland, and the law is generally recognized as having specifically targeted the U.S. Bank. The Court invoked the Necessary and Proper Clause in the Constitution, which allowed the Federal government to pass laws not expressly provided for in the Constitution's list of express powers as long as those laws are in useful furtherance of the express powers.

This fundamental case established the following two principles:

1. The Constitution grants to Congress implied powers for implementing the Constitution's express powers, in order to create a functional national government.
2. State action may not impede valid constitutional exercises of power by the Federal government.

### **New Jersey Plan**

A proposal for the structure of the United States Government proposed by William Paterson at the Philadelphia Convention. The plan was created in response to the Virginia Plan's call for two houses of Congress, both elected with proportional representation. The less populous states were adamantly opposed to giving most of the control of the national government to the larger states, and so proposed an alternate plan that would have given one vote per state for equal representation under one legislative body. This was a compromise for the issue of the houses. When the Connecticut Compromise was constructed, the New Jersey Plan's legislative body

was used as the model for the United States Senate. Ultimately, the New Jersey Plan was rejected as a basis for a new constitution. The Virginia Plan was used, but some ideas from the New Jersey plan were added. In the Senate each state would be represented equally while the House of Representatives votes would be distributed according to population.

### **Pocket Veto**

The President can indirectly veto a bill. The U.S. Constitution requires the President to sign or veto any legislation placed on his desk within ten days the United States Congress is in session. If the President does not sign the bill within the required time period, the bill becomes law by default. However, the exception to this rule is if Congress adjourns before the ten days have passed and the President has not yet signed the bill. In such a case, the bill does not become law; it is effectively, if not actually, vetoed. Since Congress cannot vote while in adjournment, a pocket veto cannot be overridden. James Madison was the first president to use the pocket veto in 1812.

### **Social Contract**

Describes a broad class of theories that try to explain the ways in which people form states and/or maintain social order. The notion of the social contract implies that the people give up some rights to a government or other authority in order to receive or maintain social order.

### **Supremacy Clause**

The clause establishes the Constitution, Federal Statutes, and U.S. treaties as "the supreme law of the land". The text establishes these as the highest form of law in the American legal system, mandating that state judges uphold them, even if state laws or constitutions conflict.

### **Vertical Separation of Powers**

Separation of powers between federal and state governments.

### **Veto**

If the President approves of the legislation, he signs it. If he does not approve, he must return the bill, unsigned, within ten days, excluding Sundays, to the house of the United States Congress in which it originated, while the Congress is in session. The President is constitutionally required to state his objections to the legislation in writing, and the Congress is constitutionally required to consider them, and to reconsider the legislation. This action, in effect, is a veto. If the Congress overrides the veto by a two-thirds majority in each house, it becomes law without the President's signature. Otherwise, the bill fails to become law unless it is presented to the President again and he chooses to sign it.

### **Virginia Plan**

States with a large population, like Virginia (which was the most populous state at the time), would have more representatives than smaller states. Large states supported this plan, while smaller states, which feared losing substantial power in the national government, generally opposed it, preferring an alternative put forward by the New Jersey delegation on June 15. The New Jersey Plan proposed a single-chamber legislature in which each state, regardless of size, would have one vote, as under the

Articles of Confederation. In the end, the convention settled on the Connecticut Compromise, creating a House of Representatives apportioned by population and a Senate in which each state is equally represented.

### **Three-fifths Compromise**

Compromise between Southern and Northern states reached during the Philadelphia Convention of 1787 in which three-fifths of the population of slaves would be counted for enumeration purposes regarding both the distribution of taxes and the apportionment of the members of the United States House of Representatives. Delegates opposed to slavery generally wished to count only the free inhabitants of each state. Delegates supportive of slavery, on the other hand, generally wanted to count slaves in their actual numbers. Since slaves could not vote, slaveholders would thus have the benefit of increased representation in the House and the Electoral College; taxation was only a secondary issue. The final compromise of counting "*all other persons*" as only three-fifths of their actual numbers reduced the power of the slave states relative to the original southern proposals, but increased it over the northern position.