

Main Idea

The scope and impact of the Constitution have expanded as it has been put into practice, interpreted, and applied to new or changing social and political challenges.

Reading Focus

1. How have the three branches of government applied the Constitution?
2. How have political parties, customs, and traditions changed how the Constitution is applied?
3. What criticisms have some people made of the Constitution?

Key Terms

executive agreements
political party
cabinet
gridlock
electoral college

The Federal Government Applies the Constitution

(pg. 85–87)

Over time, the United States has grown, and as it has grown, so has its government. In the process, the legislative, executive, and judicial branches have put the Constitution into action, extending its reach and meaning.

Legislative Action The Framers gave Congress the job of establishing the details of governing. For example, Section 1 of Article III, which created the Supreme Court, also authorized Congress to create the lower courts. In addition, without laws made by Congress, none of the departments and agencies of the executive branch would exist.

When passing laws to meet new situations, Congress moves into areas that are not specifically mentioned in the Constitution. Computers, cell phones, and terrorist attacks are all things the Framers could not have imagined. When the Supreme Court upholds a new law that deals with modern-day issues, then how the Constitution is applied has changed slightly.

Executive Implementation Presidents may sometimes use their authority in ways that the Constitution does not specifically mention. For example, presidents often make **executive agreements**—arrangements or compacts (agreements) with foreign leaders or foreign governments. This power is found nowhere in the Constitution’s text. Presidents gain this power from their written constitutional powers. These include their power as chief executive, commander in chief; their power to receive ambassadors and officials from other nations; and their duty to faithfully execute, or put into force, the laws. An executive agreement has the force of a treaty but does not require ratification by the Senate, as treaties do. However, Congress has approved many executive agreements. Most executive agreements also require later congressional action, such as a law to put the agreement in force.

Executive departments and agencies also change the way the Constitution is applied or interpreted. Though Congress created them, the agencies themselves make rules or carry out the programs that Congress has

assigned to them. In doing so, they are applying the Constitution.

Judicial Interpretation As you read in Section 1, the 1803 Supreme Court case of *Marbury v. Madison* established the principal of judicial review. This power allows the Court to determine if a law or other government action is constitutional. Court rulings, therefore, may affect the meaning of the Constitution. They may say what the rights of citizens are and what the government is allowed to do or is prevented from doing.

There is a great deal of debate today about how the words of the Constitution should be interpreted. You may have heard discussions of “strict” versus “loose” construction of the Constitution. In general, a strict construction, or interpretation, of the Constitution means giving the words in the document only their literal, or exact, meaning. A loose construction of the Constitution means following the words, plus any reasonable inferences, or suggested meanings, that can be drawn from them.

Reading Check Identifying the Main Idea How has each branch of government put the Constitution into action?

Political Parties, Customs, and Traditions (pg. 87–88)

There are other influences on how the Constitution is interpreted, applied, and carried out. These include political parties, customs, and traditions.

Political Parties Because political parties help choose the candidates, policies, and programs presented to voters, they have an impact on how the Constitution is interpreted. A **political party** is an organized group that seeks to win elections in order to influence the activities of government. Parties also help shape the judicial branch, whose job is to decide what

the law is. They support or oppose nominees to federal judicial positions, such as U.S. Supreme Court justices. At times, parties have led the drive to change the Constitution through the amendment process as well.

Recently, other groups and people have affected government policies. The groups and individuals range from interest group political action committees (PACs) to people who comment on politics online.

Customs and Traditions Customs and traditions are not mentioned in the Constitution, but they strongly influence how American government behaves. For example, the Constitution gives the president the power to “require the opinion, in writing, of the principal officer in each of the executive departments.” President George Washington relied on this language in Article II to create a **cabinet**, a group of advisers consisting of the heads of the executive departments. Later presidents followed Washington’s model.

Some traditions have become law. For example, for more than 150 years, starting with Washington himself, no president served more than two terms in office. President Franklin Roosevelt broke this tradition in the 1940s when he ran for and won third and fourth terms as president. Because people worried that such a long stay in office could lead to an abuse of power, Congress passed the Twenty-second Amendment. It limits presidents to two terms.

Reading Check Identifying the Main Idea How do political parties, customs, and traditions affect the functioning of government?

Criticisms of the Constitution (pg. 88–89)

Though the Constitution is respected around the world, some people have raised criticisms of the document. One criticism is

that the system of checks and balances allows political leaders to avoid responsibility for their actions. Frequently, Congress and the president blame one another when they are unable to get things done. This inability to govern effectively due to separation of powers is called **gridlock**.

Another criticism is that the Senate created by the Constitution is not truly democratic. Each state has two senators, in spite of population. Some people also find fault with the fact that the president and vice president are elected by members of the **electoral college**, the body of 538 people elected from the 50 states and the District of Columbia. Critics of the electoral college point to the fact that the winner of the popular vote may not win the presidency, as happened most recently in the 2000 election. Supporters of the electoral college argue that this system requires candidates to generate

support from a variety of states, large and small.

Finally, some people criticize the election system created by the Constitution, known as winner-take-all elections. In elections for the U.S. Congress, the candidate who receives the most votes is elected to the House or Senate. A candidate who comes in second or third goes home—even if he or she receives a large number of votes. Some European countries have what is known as proportional representation systems. Voters choose from party lists of candidates. Seats are given to each party according to the percentage of the total votes they win. Supporters of this type of system say it allows a larger number of viewpoints to be considered.

Reading Check Summarizing What are some of the criticisms of the Constitution?

SECTION 3 ASSESSMENT

- 1. Recall** How do the three branches of government apply the Constitution?
- 2. Identify** How do political parties, custom, and tradition affect the scope of the Constitution?
- 3. Describe** What are three criticisms of the Constitution?