

# The Unwritten Constitution

**RECALL: Our CONSTITUTION** was created at the **CONSTITUTIONAL CONVENTION** in **1787**, it was **RATIFIED** in **1788**. It contains the **Articles** which make our **GOVERNMENT** function, but other elements and traditions stem from the **Founding Fathers**.



## TERM LIMITS

Once the **CONSTITUTION** went into effect, other measures of government began to appear. These measures are internal to our system of government. There are **traditions** to be found in the **CONSTITUTION** that are part of **THE UNWRITTEN CONSTITUTION**.

**THE FIRST PRESIDENT, GEORGE WASHINGTON** (1789-1797), set a precedent for all future Presidents by serving **TWO TERMS** in office. There were no limits in the **CONSTITUTION** about how long a President should serve. The **22nd Amendment** limited the number of terms a President can serve.



## TERM LIMITS

The **Custom** of serving only up to **TWO TERMS** is an example of the **UNWRITTEN CONSTITUTION**. The **31st** President, **FRANKLIN D. ROOSEVELT** served four terms. He was elected in **1932**. The **CONSTITUTION** was changed and **Term Limits** were created. The **22nd Amendment** limits Presidents to **TWO TERMS**.



## THE CABINET

The **"CABINET"** is the **PRESIDENT'S** group of **EXPERT ADVISORS**. **CABINETS** usually include the **VICE PRESIDENT** and the heads of **DEPARTMENTS**.



## THE CABINET

**Washington** was the **FIRST** person to establish a **CABINET**. So he set a **PRECEDENT** in our system. There are **EXPERTS** in **DEPARTMENTS** that lead a **CABINET** but **there's nothing** in the **CONSTITUTION** about a **CABINET**.



## LOBBYING

**Lobbying** is when **CONGRESSMEN** or **ORGANIZATIONS** try to influence members of **CONGRESS** to pass laws that would benefit them.



## LOBBYING

**Lobbying** is **CONTROVERSIAL** because it creates **conflict** for **corruption** (bribe, favors). But it also provides a way for citizens to voice members of **CONGRESS** about the **needs** and **desires** of many different groups of **AMERICANS**.



## POLITICAL PARTIES

**Political Parties** are not mentioned in the **CONSTITUTION**, yet they play a very important role in our system of government.

In the **1790s**, **ANDREW JACKSON** argued about **Political Parties** being **against** the **Constitution**.



## JUDICIAL REVIEW

The **SUPREME COURT** has the **FINAL SAY** about the **CONSTITUTIONALITY** of laws. **MAJORITY** of **JUDGES** makes the **CHIEF JUSTICE** **JOHN MARSHALL** the **LARGEST** **SUPREME COURT CASE** **MARSHALL VS. MADISON**. **JUDICIAL REVIEW** is not mentioned in the **CONSTITUTION**.



EXPLAIN

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# Makers Of The Unwritten Constitution

**Vicki Jackson**



## **Makers Of The Unwritten Constitution:**

**The Makers of the Unwritten Constitution** William Bennett Munro, 1930      **Makers of the Unwritten Constitution** Munro, 1930      *The Makers of the Unwritten Constitution* William Bennett Munro, 1982      **The Makers of the Unwritten Constitution. The Fred Morgan Kirby Lectures ... 1929** William Bennett MUNRO, 1930      John R. Commons: Selected Essays Volume 2 Malcolm Rutherford, Warren Samuels, 2019-10-16 John R Commons is one of the most significant figures in the development of American economics One of the founders of the institutional school Commons developed theories which continue to influence the evolution of capitalism and of institutional change These volumes collect for the first time his major essays and articles      **Legal Positivism in American Jurisprudence** Anthony J. Sebok, 1998-10-28 This work represents a serious and philosophically sophisticated guide to modern American legal theory demonstrating that legal positivism has been a misunderstood and underappreciated perspective through most of twentieth century American legal thought      *Constitutional Faith* Sanford Levinson, 2011-08-22 This book examines the constitutional faith that has since 1788 been a central component of American civil religion By taking seriously the parallel between wholehearted acceptance of the Constitution and religious faith Sanford Levinson opens up a host of intriguing questions about what it means to be American While some view the Constitution as the central component of an American religion that serves to unite the social order Levinson maintains that its sacred role can result in conflict fragmentation and even war To Levinson the Constitution's value lies in the realm of the discourse it sustains a uniquely American form of political rhetoric that allows citizens to grapple with every important public issue imaginable In a new afterword Levinson looks at the deepening of constitutional worship and attributes the current widespread frustrations with the government to the static nature of the Constitution      **The Invisible Constitution** Laurence H. Tribe, 2008-09-17 As everyone knows the United States Constitution is a tangible visible document Many see it in fact as a sacred text holding no meaning other than that which is clearly visible on the page Yet as renowned legal scholar Laurence Tribe shows what is not written in the Constitution plays a key role in its interpretation Indeed some of the most contentious Constitutional debates of our time hinge on the extent to which it can admit of divergent readings In *The Invisible Constitution* Tribe argues that there is an unseen constitution impalpable but powerful that accompanies the parchment version It is the visible document's shadow its dark matter always there and possessing some of its key meanings and values despite its absence on the page As Tribe illustrates some of our most cherished and widely held beliefs about constitutional rights are not part of the written document but can only be deduced by piecing together hints and clues from it Moreover some passages of the Constitution do not even hold today despite their continuing existence Amendments may have fundamentally altered what the Constitution originally said about slavery and voting rights yet the old provisos about each are still in the text unrevised Through a variety of historical episodes and key constitutional cases Tribe brings to life this invisible constitution showing how it has evolved

and how it works Detailing its invisible structures and principles Tribe compellingly demonstrates the invisible constitution's existence and operative power Remarkably original keenly perceptive and written with Tribe's trademark analytical flair this latest volume in Oxford's Inalienable Rights series offers a new way of understanding many of the central constitutional debates of our time About the Series Combining authority with wit accessibility and style Very Short Introductions offer an introduction to some of life's most interesting topics Written by experts for the newcomer they demonstrate the finest contemporary thinking about the central problems and issues in hundreds of key topics from philosophy to Freud quantum theory to Islam

**Makers of the American Republic** David Gregg, Sidney Howard Carney (Jr), 1904 **The Invisible Constitution in Comparative Perspective** Rosalind Dixon, Adrienne Stone, 2018-11-08 Constitutions worldwide inevitably have invisible features they have silences and lacunae unwritten or conventional underpinnings and social and political dimensions not apparent to certain observers This contributed volume will help its wide audience including scholars students and practitioners understand the dimensions to contemporary constitutions and their role in the interpretation legitimacy and stability of different constitutional systems

**Implementing the Constitution** Richard H. FALLON, 2001 This book argues that the Supreme Court performs two functions The first is to identify the Constitution's idealized meaning The second is to develop tests and doctrines to realize that meaning in practice Bridging the gap between the two implementing the Constitution requires moral vision but also practical wisdom and common sense ingenuity and occasionally a willingness to make compromises In emphasizing the Court's responsibility to make practical judgments Implementing the Constitution takes issue with the two positions that have dominated recent debates about the Court's proper role Constitutional originalists maintain that the Court's essential function is to identify the original understanding of constitutional language and then apply it deductively to current problems This position is both unwise and unworkable the book argues It also critiques well known accounts according to which the Court is concerned almost exclusively with matters of moral and constitutional principle Implementing the Constitution bridges the worlds of constitutional theory political theory and constitutional practice It illuminates the Supreme Court's decision of actual cases and its development of well known doctrines It is a doctrinal study that yields jurisprudential insights and a contribution to constitutional theory that is closely tied to actual judicial practice

*The American economic review*, 1936 FDR's Long New Deal Robert E. Wright, 2024-10-28 During his presidency FDR led the American public to believe that the US government could set policy that would transform the economy This book argues that this assumption which ultimately became embedded into the general American psyche has impacted our economy today in more ways than one Robert E Wright breaks down the negative societal impact of the New Deal throughout this book The chapters highlight the lasting influence of these policies providing new perspectives and never before seen archival research related to FDR's policies The book provides insight into how assumptions of governmental intervention in the economy have shifted the direction of the economy over time It also dives

into socioeconomic topics related to social justice critiquing the New Deal in its original and historical contexts Wright brings a long term public choice perspective to the New Deal providing interdisciplinary insights into socioeconomic topics such as gender race and climate The resulting book is ideal for those interested in economics American history law and policy

**The Dynamic Constitution** Richard H. Fallon, Jr, 2013-04-22 In this revised and updated second edition of The Dynamic Constitution Richard H Fallon Jr provides an engaging sophisticated introduction to American constitutional law Suitable for lawyers and non lawyers alike this book discusses contemporary constitutional doctrine involving such issues as freedom of speech freedom of religion rights to privacy and sexual autonomy the death penalty and the powers of Congress Through examples of Supreme Court cases and portraits of past and present Justices this book dramatizes the historical and cultural factors that have shaped constitutional law The Dynamic Constitution 2nd edition combines detailed explication of current doctrine with insightful analysis of the political culture and theoretical debates in which constitutional practice is situated Professor Fallon uses insights from political science to explain some aspects of constitutional evolution and emphasizes features of the judicial process that distinguish constitutional law from ordinary politics The Dynamic Constitution

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**Diminishing the Bill of Rights** William Davenport Mercer, 2017-04-13 The modern effort to locate American liberties it turns out began in the mud at the bottom of Baltimore harbor John Barron Jr and John Craig sued the city for damages after Baltimore s rebuilt drainage system diverted water and sediment into the harbor preventing large ships from tying up at Barron and Craig s wharf By the time the case reached the U S Supreme Court in 1833 the issue had become whether the city s actions constituted a taking of property by the state without just compensation a violation of the Fifth Amendment to the U S Constitution The high court s decision in Barron v Baltimore marked a critical step in the rapid evolution of law and constitutional rights during the first half of the nineteenth century Diminishing the Bill of Rights examines the backstory and context of this decision as a turning point in the development of our current conception of individual rights Since the colonial period Americans had viewed their rights as springing from multiple sources including the common law natural right and English legal tradition Despite this rich heritage

and a prohibition grounded in the Magna Carta against uncompensated state takings of property the Court ruled against Barron's claim The Bill of Rights Chief Justice John Marshall declared in his opinion for the majority restrained only the federal government not the states The Fifth Amendment accordingly did not apply to Maryland or any of the cities it chartered In explaining how the Court came to reject a multisourced view of human liberties a position seemingly inconsistent with its previous decisions William Davenport Mercer helps explain why we now envision the Constitution as essential to guaranteeing our rights Marshall's view of rights in Barron Mercer argues helped him navigate the Court through the precarious political currents of the time While the chief justice may have effected a shrewd political maneuver the decision helped hasten a reconceptualization of rights as located in documents Its legacy as Mercer's work makes clear is among the Jacksonian era's significant democratic reforms and marks the emergence of a distinctly American constitutionalism

**The Supreme Court and American Constitutionalism** Bradford P. Wilson, Ken Masugi, 1998 In this important book fourteen of America's leading constitutional scholars assess the Supreme Court's performance expounding the animating principles of American constitutionalism Essays devoted to fresh examination of the Supreme Court's jurisprudence with respect to the Necessary and Proper Clause the Commerce Clause federalism the common law international law and national sovereignty separation of powers fundamental rights term limits and constitutional criminal procedure Other essays evaluate the work of the Court as republican school master analyzing how the Court has articulated and affected the American people's capacity for self government the principle of the rule of law the historic burden of racial injustice respect for limited constitutional government and the civilizational distinction between liberty and license The Supreme Court and American Constitutionalism will be of great value to students and scholars of American constitutional studies constitutional law and American government

Living Law Roger Cotterrell, 2017-07-05 Living Law presents a comprehensive overview of relationships between legal and social theory and of current approaches to the sociological study of legal ideas It explores the nature of legal theory and sociolegal studies today as teaching and research fields and the work of many of the major sociolegal theorists In addition it sets out the author's distinctive approach to sociological analysis of law applying this in a range of studies in specific legal fields such as the law of contract property and trusts constitutional analysis and comparative law

*The Rights Retained by the People: The Ninth Amendment and Constitutional Interpretation* Randy E. Barnett, 1993-03-16 Volume II of The Rights Retained by the People explores how the Ninth Amendment affects the proper way of interpreting the Constitution as a whole Contributors Sotirios A Barber Michael W McConnell Sanford Levinson Stephen Macedo Andrzej Rapaczinski Thomas C Grey Lawrence G Sager Morris S Arnold Earl M Maltz Susanna Sherry Calvin R Massey Thomas McAfee and Raoul Berger Together with Volume I which covers primarily the history and proper interpretation of the amendment itself these books constitute the definitive reference work on the Ninth Amendment

*Constitutional Engagement in a Transnational Era* Vicki Jackson, 2013-02-15 Constitutional law in the

United States and around the world now operates within an increasingly transnational legal environment of international treaties customary international law supranational infrastructures of human rights and trade law and growing comparative judicial awareness This new environment is reflected in increasing cross national references in constitutional court decisions around the world The constellation of legal orders in which established constitutional regimes operate has changed there are more bodies generating law more international legal sources and more multi national interactions that bring into view various legal orders How do these transnational phenomena affect our understanding of the role of constitutions and of courts in deciding constitutional cases Constitutional Engagement in a Transnational Era explores this question looking at constitutional court decisions from around the world and identifying postures of resistance convergence or engagement with international and foreign law For the United States the book argues for cautious engagement by the Supreme Court with transnational sources of law in interpreting the national constitution Constitutional Engagement in a Transnational Era offers law school students and professors an authoritative study of comparative constitutional law by one of the most important scholars of domestic and comparative constitutional law The book defines how international comparative experiences are relevant to constitutional analysis and discusses in detail the multiple possible connections between international law and constitutional law including a comparative overview of constitutional law in Australia Canada France Germany India Israel South Africa the United Kingdom and the United States

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