

Solution Manual For

Constitutional Law Governmental Powers and Individual Freedoms, Updated Edition, 4th edition Daniel E Hall John P Feldmeier

Chapter 1

Introduction to Constitutional Law

CHAPTER OVERVIEW

Under the Articles of Confederation, the nation was fragmented and the national government was too weak to effectively deal with the challenges facing our young nation. The Framers gathered in Philadelphia to revise the Articles of Confederation. Understanding that their task was greater than this, the delegates chose to abolish the Articles of Confederation and to write a new constitution. They knew that presenting a new constitution would be controversial. To preserve the integrity of the process, they agreed to keep their proceedings secret until the final document was completed.

They created a new governmental structure in the new constitution. The national government would be stronger, but it was limited to the authorities directly given it by the people through the Constitution. Although they intended to strengthen the federal government, they were careful to preserve local governmental authority. The concern about excessive federal authority was so great that the principle of dual sovereignty, or concurrent federal and state authority, was reinforced through the Tenth Amendment only two years after the Constitution was enacted. Thus, powers that appeared inherently national were delegated to the national government, such as foreign relations and war. In addition, control over interstate, foreign, and Indian commerce was assigned to Congress. Everyday matters, such as intrastate commerce, crime, and social concerns, were left to the states.

The first state to accept the new constitution was Delaware. The delegates decided that ratification would occur when the ninth state ratified. This happened in New Hampshire on June 21, 1788. The last of the thirteen states to ratify was Rhode Island, which did so on May 29, 1790. The Bill of Rights was added to the Constitution one year later.

The framers were successful in establishing a stronger national government and are credited with saving the Union from economic disaster and civil war. The federal government has continually grown in size and authority under this Constitution. Whether the federal government has become too large and powerful is the subject of continual discussion. Federalism, or the division of governmental powers among the federal and state governments, is the subject of Chapters 2 and 8. The division of authority between the three branches is a work in progress as well. But what could have proved to be a very weak and ineffective branch, the judiciary, was given a power boost by John Marshall's Supreme Court, particularly through *Marbury v. Madison*'s unabashed assertion of courts as final interpreters and arbiters of the Constitution. The power of the judiciary to review the acts of its coordinate branches and the states for constitutionality is significant. Although not specifically provided for in the Constitution, Chief Justice John Marshall stated in *Marbury v. Madison* that the power is inherent in the general grant of judicial power found in Article III. Accordingly, all Article III judges possess the power of judicial review. This diffusion of authority establishes significant judicial power in the American political and legal systems. Judicial review is used every day in courts across the land when judges review statutes, other written law, and the actions of government officials (such as law-enforcement officers) for constitutionality.

The framers' legacy extends well beyond having established the oldest written constitution in continuous existence. Their ripple turned into a constitutional wave that has swept the world.

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Louisiana. Constitutional Convention

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