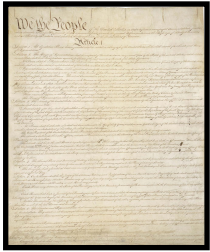


Constitution Day 2014

ABOUT THE U.S. AND MINNESOTA CONSTITUTIONS

We the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common Defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves

United States Constitution



[View larger
version](#)

English philosopher [John Locke](#) argued that in society, the rights of life, liberty, and property reside with the people; and in order to live in a civil society and to protect these rights, the people needed to establish a social contract with those who govern them. In America, government is centered on such a social contract- the Constitution.

America's journey to develop a constitution began with the [Declaration of Independence](#). And continued during the [Revolutionary War](#) (1775-1783), when the 13 original colonies convened a Congress of Federation that worked to develop the laws that would help define our young government. Because the former colonists feared a strong centralized government, the [Articles of Confederation](#), which the Congress of Confederation drafted, established a weak central government. But these Articles proved to be inadequate for the problems that the young government would face.

In early 1787, another Convention would be called, the [United States Constitutional Convention](#). It was the job of this convention to revise the Articles of Confederation. In the end, they found it easier to start over. On September 17, 1787, the Convention ratified what is now our [Constitution](#). A majority of the voting population in 9 of the 13 states also needed to support the new Constitution. On March 4, 1789, the United States Constitution became law. It is the longest lasting written Constitution in the world.

Minnesota Constitution



[View larger
version](#)

In addition to the United States Constitution, Minnesota's citizens are also governed by the [Minnesota Constitution](#). On February 26, 1857, the United States Congress passed what is known as the Enabling Act. The bill allowed the voters in a territory to vote on whether to apply for statehood, in addition to calling for the state to hold a Constitutional Convention.

An election was held in Minnesota on June 1, 1857 to elect delegates to the convention. The delegates were to meet in Saint Paul between July 13 and August 29, 1857. Partisanship soon threatened to derail the Convention. The Democrats and Republicans met separately, and drafted their own separate Constitutions.

In the end, a compromise committee, consisting of five members from each party, drafted a Constitution which would be acceptable to both sides. However, when the time came for the delegates to sign the Constitution, most refused to sign a copy already signed by members of the opposing side.

As a result, two copies were written, which contained over 300 wording, punctuation, and grammatical differences. None of these differences changed the meaning of what the compromise committee had agreed upon. On August 29, 1857, the delegates signed the two copies of the Minnesota Constitution.

Congress of the United States

About the Bill of Rights

When we think of the Constitution what comes to mind? For most people, it is the [Bill of Rights](#). The drafters of the Constitution were torn about whether specific “Rights” should be included. Many delegates believed that because the Constitution only granted limited powers, all other rights were obviously reserved to the people; therefore there was no need to include in the constitution a specific list of which “Rights” were protected. But in 1791, there were 10 Amendments added to the Constitution. These amendments did list specific rights and are what we now call the Bill of Rights.

Notable U.S. Supreme Court Cases

There are many United States Supreme Court cases for which the decision rests on the U.S. Constitution. Many consider these cases instrumental in the development of the United States.

The following are some examples of important Supreme Court decisions:

[Marbury vs. Madison](#)- Established the doctrine of Judicial Review.

[Plessy vs. Ferguson](#)- Affirmed the concept of “separate but equal”.

[Brown vs. The Board of Education](#)- Held that the concept of “separate but equal” is unconstitutional.

Notable Minnesota Appellate Courts Cases

There has been much less research and analysis done by scholars on court cases related to state constitutions. Minnesota is no exception; the following examples illustrate a variety of cases that have been heard before the Appellate Courts.

Unity Church of St. Paul, et al. v. State of Minnesota- Constitutionality of Minnesota Citizens’ Personal Protection Act of 2003- the predecessor to “Conceal & Carry”.

[Court of Appeals Decision](#)

Kahn v. Griffin- Examines the “right to vote” based on redistricting in Minneapolis.

[Supreme Court Decision](#)

State of Minnesota v. Mustafaa Naji Fort- Looks at the Constitutionality of police searches at traffic stops.

[Court of Appeals Decision](#)

[Supreme Court Decision](#)

MINNESOTA CONSTITUTIONAL HISTORY HIGHLIGHTS

The Minnesota Constitution has not been replaced during its nearly 150 year history. Over the decades, many other states re-wrote their constitutions, but Minnesota did not, so Minnesota now has one of the oldest state constitutions.

In 1971, the Minnesota state legislature established a constitutional study commission to review the Constitution. The members of the commission decided to restructure the Constitution’s Articles and Sections; they also made recommendations on ways to modernize the language.

In 1973, both Houses of the State Legislature passed an amendment that incorporated the recommendations of the commission. Then Governor Wendell Anderson supported the amendment, and it went for a vote before the people on November 5, 1974. The Amendment was passed and the changes were adopted to all further copies of the Constitution.

Two Governments? Two Constitutions?

The government structure of the United States of America is based on the idea of federalism: two separate, but interconnected, structures governing the citizens. In the United States this means that citizens have a federal government and a federal constitution. In addition each state has a separate state constitution and state government.

A common question that arises from this structure is which government holds supremacy over the other. Most people believe that the federal government has the “final word” in many areas of governance. However, this is not completely accurate.

In creating the federal constitution, the framers purposefully left certain things ambiguous. They created this authority, in part, because of their fear of an overpowering centralized government, which might resemble the monarchy from which they had fought in order to achieve independence. It is also due to differences in theological, social, economic and political differences in each state. The framers believed that if there was a general set of laws to protect all citizens’ basic rights, the states could then determine which further rights they would chose to protect.

The Constitution and the Three Branches of Government

One provision that is included in every Constitution is a section describing the framework of the government. In the federal and state constitutions, this system includes an Executive Branch, a Legislative Branch, and a Judicial Branch. Each branch plays an important role in our government. The roles are independent, yet connected; they provide what is known as a system of “checks and balances.” The Legislative Branch enacts the laws. The Executive Branch enforces the laws. The Judicial Branch interprets the laws.

Most people understand how the Legislative and Executive Branches interact with the law. What can be less clear is how the Judicial Branch interacts with the law. When a citizen believes that the Legislature has enacted an unconstitutional law, he or she may bring a case before the Judicial Branch. In the same way, if a citizen believes that the way the Executive Branch is enforcing a law is inappropriate, he or she can bring a case before the Judicial Branch.

Courts serve a very important role in our government. Under the Constitution they are the branch of government charged with hearing “grievances” from citizens. They are the final arbitrators on what is or is not legal under the state and federal constitutions and laws.

The Constitution & the Judicial Branch

How does having two Constitutions effect today’s Judicial Branch? When a constitutional question is brought to the court, the case frequently goes before the highest court in the land. At the federal level, and in most states, that court is called the Supreme Court. These courts examine the Constitution to determine whether the legal question is constitutional. In recent years there have been questions raised about what legal issues should be examined by state Supreme Courts based on their own state constitution, and what issues should be examined based on the federal constitution. This is largely a matter that states may determine for themselves.

In some areas of law there is more or less clarity in one Constitution or law than in the other. In these cases, where there is a lack of clarity, it is up to the court to determine the intent of the law. Sometimes the law is purposefully ambiguous, this ambiguity can allow more Judicial discretion, meaning that the Court can interpret the legislative intent of the law. However, sometimes the law is ambiguous because the question is not one that the legislature expected to be brought before the court.

The judicial branch determines the basis of each legal question, and every decision must be based on the rule of law. This result is generally accomplished by the Court examining its past decisions on the issue (if precedent); as well as the development of law in this area. In many cases, the Court’s decision will harken back to the Constitution, which hopefully has laid out the most basic aspect of the relationship between a citizen and his or her government.

