



Constitutional Principles

Read the constitutional principles and annotate the explanations using the strategies in the Annotation Station.

Annotation Station

- ○ Circle words you don't know, and take a moment to find the definition.
- Highlight in **YELLOW** phrases that confuse you. Use context clues to figure out their meaning.
- Highlight in **RED** any references to limitations or evidence of checks and balances.
- Highlight in **GREEN** any references to rights or responsibilities guaranteed or protected.
- ☆ Star the phrase or line that you find most important for each principle.

10th Amendment: The often overlooked 10th Amendment to the United States Constitution states: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” The Framers wrote the 10th Amendment to help the people understand that powers not specifically granted to the federal government belonged to the states or the public. The Framers hoped the 10th Amendment would curb the people’s fear that the new national government might either try to apply powers not listed in the Constitution or limit the states’ ability to regulate their own internal affairs as they had in the past.

Necessary and Proper Clause: Article I, Section 8, clause 18 of the Constitution gives Congress the power “[t]o make all Laws which shall be necessary and proper for carrying into Execution” the other federal powers granted by the Constitution. This clause is sometimes called the elastic clause or the necessary and proper clause because it allows for the implied powers of Congress. It has become the constitutional source of the vast majority of federal laws. Because the Framers could not possibly account for every future need or issue, they created a way to expand congressional powers to include laws necessary to carry out their expressed powers. All implied powers must be tied directly to an expressed power. Some scholars argue that the necessary and proper clause is the single most important provision in the Constitution.

Commerce Clause: The commerce clause has become the most broad-ranging power of the federal government. Found in Article I, Section 8, it allows Congress “to regulate commerce with foreign nations and among the several states.” During the Progressive Era, the Supreme Court limited the power of Congress to regulate interstate commerce. However, during the Great Depression and the New Deal, the Court reversed itself and supported more federal power to regulate the economy. In the 1990s, the Court once again limited the power of Congress to pass broad laws using the commerce power, especially if they burdened state officials. That tension between the states and the federal government over the proper extent of the commerce clause remains today.



Judicial Review: The power of the courts to say that the Constitution does not allow the government to do something is considered judicial review. The courts have the power to declare a law or executive order as unconstitutional. As described by Alexander Hamilton in Federalist 78 and decided by the case of *Marbury v. Madison*, judicial review is the ability to declare an action unconstitutional, and it is the power behind the Supreme Court.

Supremacy Clause: The clause in the Constitution that explains that states cannot make laws that conflict with the Constitution or with the laws made by Congress is considered the supremacy clause. Found in Article VI of the Constitution, it states, “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the land; and the Judges in every State shall be bound thereby.” State laws, even state constitutions, must not go against the U.S. Constitution and federal laws.

Rule of Law: Article VI, clause 3 of the Constitution states, “The Senators and Representatives before mentioned and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation to support this Constitution.” This means that because the Constitution is the supreme law of the land, no person is above it, no matter their office. When a federally elected official is sworn in, they repeat the oath of office that promises, “I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.”