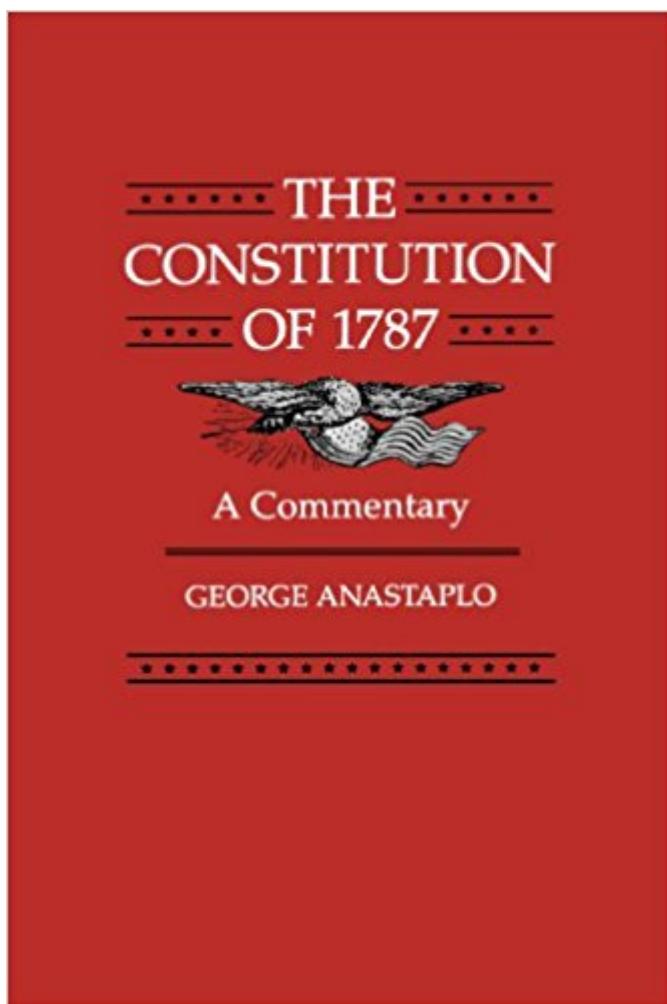


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# The Constitution Of 1787: A Commentary



## **Synopsis**

"A marvelous instrument for introducing citizens to their Constitution" (Mortimer J. Adler), "this is exactly the kind of book that former Chief Justice Burger, as Chairman of the Bicentennial Commission, has been pleading with scholars and scholarly presses to produce" (Thomas L. Pangle, University of Toronto).

## **Book Information**

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## **Customer Reviews**

A distinguished legal scholar, Anastaplo has undertaken a pioneer venture, an exegetical journey through the Constitution, article by article, section by section, virtually clause by clause. Perceiving an unbroken Anglo-American legal history, he emphasizes the framers' indebtedness to English common law and claims a continuous line from English constitutionalism to the Declaration of Independence and then to the Constitution--hardly received scholarly truths. Insisting upon Congress's dominance among the three branches of government, Anastaplo offers example upon example of its powers and warns against presidential aggrandizements and the worship we have made of the executive office. Though his approach seems mechanical at first, this study is sensitive to complexity and throws up fresh analytic shards. It will be used by legal scholars for decades to come.-Milton Cantor, Univ. of Massachusetts, AmherstCopyright 1989 Reed Business Information, Inc.

"Those desiring to engage in the enterprise of 'thinking about the Constitution' in the company of a resourceful and knowledgeable guide will find this book quite interesting and enjoyable." (Edward

Dumbauld Journal of American History)"A marvelous instrument for introducing citizens to their Constitution." (Mortimer J. Adler)

Anyone interested in our Constitution, esp. in its original unamended form, absolutely should study this magnificent book. It will make you think very deeply about first things (e.g., natural law & the common law) as well as give you tools to attempt to comprehensively analyze and understand the entire Constitution, as it works as a unified, coherent whole. Anastaplo has great respect for the document, its Framers, those who ratified it, and the elements that preceded it and influenced it (e.g., the Declaration of Independence and The Articles of Confederation). From the preface, these lectures "were prepared for audiences made up of undergraduates of the Rochester Institute of Technology, of faculty of its College of Liberal Arts, and of members of the local bench and bar. I delivered fortnightly lectures between September 1985 and May 1986." I can hardly imagine that anyone reading a comprehensive review of the US Constitution and how it has been implemented would concur readily with everything the author writes. I labor under no such delusion here, for I'm not sure I can say I always agree with Anastaplo. But he makes me think and makes me call into question some of my own long-held and previously researched assumptions and interpretations regarding the Constitution. Anyone reading this realizes they are in the presence of a magnificent educator, teacher, and lecturer. (At times he almost comes across as a rabbi or priest regarding this document he reveres.) Anastaplo makes his overall interpretive stance rather clear in the preface when he writes, "The nationalist interpretation of the Constitution I develop here, with a due respect for States' Rights, was anticipated by John Marshall and Abraham Lincoln. I long ago recognized that most of the things I have worked out in reading the Constitution have been found by others long before me." Here are some of his more interesting areas of analysis:- He is a forceful advocate of the position of Legislative Supremacy and points out how Congressional Power is embedded in almost every area of the Constitution, including the Presidency, Judiciary, and States, and even in areas like foreign policy and the military (esp. through its role in Appropriations).- He takes a very expansive view of the Preamble, General Welfare, Commerce, and Necessary & Proper Clauses. He believes the Founders gave Congress virtually unlimited authority to regulate Commerce, an authority that both the Presidents and Courts worked to limit until the New Deal Era. (But interestingly, he appears to reject the Dormant Commerce Clause position of the Supreme Court and would give States authority to regulate commerce unless and until Congress specifically acts in the area.)- He does not believe there is a need to amend the way we elect the President. Our system works as long as people know how it works (that States and their electors are controlling,

not the popular vote).- He is an ardent admirer of the common law (and its ties to natural law, reason, and justice) and rues how the US Supreme Court abandoned its constitutional role in leading a National common law development in 1938 (Chp 10. Article III, Sections 1 & 2).- He opposes Judicial Review, as regards Congress (see Chpt 11), and believes Marbury was decided wrongly.- He discusses at length the powerful but attenuated role of States under the Constitution in light of the Legislative Supremacy. His views on the respective roles of Congress and States vis-a-vis the Amendment process is most fascinating (e.g., Congress lacks power to call the Federal Convention, but so do the States; only the States could call it but then Congress, not the States, would have great authority in regards to how it would specifically work).- He argues against the Calhounian view of the Constitution (see Chapt 17. The Americans of the Constitution).I was also disappointed about his analysis regarding the Presidency and Congress' creation of a vast and ever growing Administrative Law, where the President through his Cabinet Departments essentially writes law. Anastaplo writes without mentioning how Congress passes some law (say the Family and Medical Leave Act) which is a rather short but then empowers a Cabinet Secretary (here Labor) to write voluminous regulations (now running hundreds of pages when you include the commentary on the regulations). He decries our tendency to create an Imperial Presidency but is silent on how the New Deal Era led to our Legislative Presidency.I found only 1 chapter wanting, Chpt. 7 Anglo-American Constitutionalism, which is primarily about the influence of Shakespeare and his History Plays. It is very subjective and somewhat tangential to the discussion at large, but even here he makes many interesting points and gives the reader a sense as to how the Framers might have viewed their duties in light of their extensive common knowledge of Shakespeare and his works.

Contents:- Preface (6 pgs)- 17 Primary Chapters (pgs. 1-234), including: -- Chpt 2. Preamble -- 3. Article I, Sections 1, 2, 3, 4, 5, & 6 -- 5. Article I, Section 8 -- 9. Article II, Sections 2, 3, & 4 -- 11. Article III, Sections 2 & 3 -- 12. The State Constitutions in 1787 -- 13. Article IV -- 14. Article V -- 15. Article VI -- 16. Article VII- Appendix and Sources (pgs. 235-302; specific items are labelled A-M), including: -- A. Declaration of Independence (1776) -- B. Articles of Confederation (1777-1781) -- D. Northwest Ordinance (1787) -- E. United States Constitution (1787) -- K. Amendments to the Constitution of the United States (1791-1978) -- L. Proposed Amendments to the Constitution Not Ratified by the States (1789-1978)- Notes (pgs. 303-330)- Index (pgs. 331-339)

The Notes are worth the price of admission. The reader should study them very carefully. Same goes for the documents in the Appendix.To get the most out of the author's thoughts and methods, this book must be read in conjunction with its sequel on The Amendments to the Constitution (see my separate review).If only the work were updated to include the 2000 election

crisis and the recent summer of 2012 Affordable Health Care (Obama Care) Act, which finally set some limits on Congress' power under the Commerce and Necessary & Proper clauses. I suspect he might not be too displeased, esp. as he mentions in his book how the use of the Taxing and Spending powers had already been used as a virtually unlimited substitute for his very expansive reading of the Commerce, General Welfare and Necessary & Proper clauses.

A solid commentary on the Constitution, a must have for anyone who is interested in the original intent of the Constitution.

When I chose the cheapest book available, I really wasn't expecting a basically brand new book, but that's what I got. No highlighting, no missing pages or cover damage at all. The only way I can tell that it's used is that the original price sticker on the back is faded, lol. I couldn't be happier with my purchase and I would buy from this seller again.

I first read this book back in the early 1990's while I was a Political Science undergrad, and it was the first exposure I had to the documents that shaped our country. The Northwest Ordinance, the Constitution, the Declaration, and others are all put into context with one another and with the origins of the philosophy of our democracy. You will better understand these documents and who we are as a people after you read this book.

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