

**THE CONSTITUTION
AND WHAT IT
MEANS TODAY**

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The Constitution and what it means today by Edward S. Corwin

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EDWARD S. CORWIN

**THE CONSTITUTION
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AND

WHAT IT MEANS TO-DAY

BY

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PREFACE.

The Constitution as here printed is for the most part the text which appears in *Old South Leaflets*, No. 1.

I avail myself of this opportunity to express my thanks to two of my colleagues, Professor Dana C. Munro and Professor Christian Gauss—to the former for suggesting this small volume and to the latter for several ideas which have been incorporated in it to its improvement.

THE AUTHOR.

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INTRODUCTION

Notwithstanding Mr. Bryce's assurance that the Constitution can be read through in twenty minutes, comparatively few people undertake the task nowadays. This unfortunate circumstance is doubtless to be explained by several reasons, but there is one of these reasons which is of special importance. This consists in the fact that in the course of 130 years the real constitution of the United States has come to be something very different from the document referred to by Mr. Bryce.

It was the wise purpose of the men who framed the Constitution to avoid what one of them called "a too minutious wisdom." Being desirous that their work should endure, they for the most part laid down only general principles. The framework of the new Government was, it is true, outlined quite distinctly, but the real scope of the powers which it should exercise and of the rights which it should guarantee was left, to a very great extent, for future developments to determine.

Moreover, in the course of 130 years conditions of life, and with them political tendencies, have undergone great changes. In the case of an instrument couched in such broad terms as is the Constitution, a great deal depends upon the point of view from which the work of interpreting it is approached. To be sure, the final word in inter-

preting the Constitution belongs to the Supreme Court, a body whose membership alters only very gradually; yet it does alter and even if it did not, its members could not remain unaffected by widespread changes among their countrymen as to political philosophy and outlook.

Thus at one time the Constitution has been interpreted from the point of view of the desire for national unity, at another time from that of the desire for local autonomy; at one time from the point of view of concern for private rights, at another from that of concern for majority rule.

Inevitably, the interpretations rendered from these often conflicting points of view have constantly modified—sometimes cancelled—one another, and what the Constitution means to-day is, so to speak, their algebraic sum. But whence are the items of this calculation to be obtained? To some extent from the history of actual practice under the Constitution, to some extent from the amendments which have been formally added to it, but to a more important extent from the hundreds of decisions which have been handed down by the Supreme Court in interpreting its provisions.

To gather all these items together, however, and sum them up is obviously a task which the average citizen has no time to perform for himself. It is

accordingly this very task which this small volume endeavors to perform for him. As to the need for the kind of thing here attempted there can be little doubt. The Constitution is the People's Law; it is the substructure of government in the U. S.; it is the great mould in which all legislation, all governmental policy is cast. The citizen simply cannot perform his task intelligently without a considerable measure of familiarity with its provisions and their meaning to-day.

The Constitution was framed by a convention which assembled at Philadelphia toward the close of May, 1787, and adjourned on the following September 17th. This body was summoned by the Old Congress of the Confederation; its members were chosen by the several State legislatures—all the States but Rhode Island finally participating in its deliberations. Of the fifty-five members who attended, thirty-nine signed the Constitution, which was then submitted for ratification to conventions chosen in the several States for the purpose. Delaware was the first State to ratify. Then followed ten others in the following order: Pennsylvania, New Jersey, Georgia, Connecticut, Massachusetts, Maryland, South Carolina, New Hampshire, Virginia, New York. Under an act of the Old Congress the new Government went into effect on