

Political Science 17.20

Introduction to American Politics

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Lecture 5: The Constitution II
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Outline

- 1 Principles and Pragmatic Politics
- 2 Key Features of the Constitution
- 3 The Evolving Constitutional System

1 Principles and Pragmatic Politics

2 Key Features of the Constitution

3 The Evolving Constitutional System

Key Principles

- Federalism (fait accomplis)
- Popular sovereignty (contested meanings)
- Limited government
 - Locke: individual rights
 - Montesquieu: separated institutions

Conflicts and Compromises

■ Large vs. small

- Representation by population or by state?
- Connecticut Compromise

■ Slave vs. free

- Count slaves as part of population?
- Three-Fifths Compromise
- National regulation of slavery?

■ Mercantile vs. agricultural

- How much power over commerce and trade?
- Power to regulate interstate commerce (logroll)

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Separated Institutions Sharing Powers

Legislative (House of Representatives, Senate):

- Two branches with different powers and electoral bases
- **Powers:** commerce, taxation, war, “necessary and proper”
- **Checks:** confirmation of appointments, impeachment

Executive (President, Vice President, Bureaucracy):

- Electoral college
- **Powers:** commander in chief, appointment, execute laws
- **Checks:** veto, judicial appointments

Judicial: (Supreme Court, federal courts)

- **Powers:** interpret and apply law
- **Checks:** judicial review → ambiguous

Federalism

- States have separate existence, direct representation
- U.S. gov't limited to **enumerated powers** (e.g., commerce)
- 10th Amendment reserves other powers to states/people
- Supremacy Clause + Necessary & Proper (**Elastic**) Clause
- Equal representation of states \implies **unequal rep. of people**

An Alternative Reality

Content removed due to copyright restrictions. To see a map of the United States redrawn as 50 states with equal population, go to: <http://fakeisthewreal.org/reform/>.

Bill of Rights

- Response to Antifederalist critiques
- **Liberal** (individual) as well as **republican** (communitarian):
 - Protect individual rights from federal gov't
 - Speech, press, assembly (1st)
 - Searches and seizures (4th)
 - Due process of law (5th)
 - Promote local democratic participation and control
 - Churches' religious freedom (1st)
 - Bearing arms in militia (2nd)
 - Trial by jury (5th–7th)
 - States' reserved rights (10th)

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Formal Changes to the Constitution

- Amending the Constitution: possible but difficult
 - 2/3 of Congress, 3/4 of states
- Democratizing amendments:
 - 13th: Abolish slavery (1865)
 - 14th: Apply due process and equal protection to states (1868)
 - 15th: Prohibit denial of suffrage based on race (1870)
 - 17th: Popular election of senators (1913)
 - 19th: Women's suffrage (1920)
- Other important amendments:
 - 12th: Reform electoral college (1804)
 - 16th: Allow income tax (1913)
 - 22nd: Limit president to two terms (1951)

Informal Changes to the Constitutional System

Elections:

- More elections, expanded suffrage (though not always)

Parties:

- Organize & coordinate across fragmented state
- Initially feared, but Framers eventually embraced them

Judicial Review:

- Constitution vague; first used in 1803 (*Marbury v. Madison*)

Federalism

- Gradual expansion of Congress's authority, esp. economic

Civil Rights

- Application of Bill of Rights to states; courts as protectors

Presidential Power

- Enormous bureaucracy, standing army

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