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STATE AND FEDERAL GOVERNMENT 2

I. A PREFACE TO AMERICAN POLITICS
- A. SEEING THROUGH A GLASS, DARKLY
  - 1. We Are Like Fish **in** Water
    - a. Our Circumstances
  - 2. What Is Politics?
    - a. Power
    - b. Context: "I am I and My Circumstances" (Ortega y Gasset)
- B. CITIZENS AND HOUSEHOLD STEWARDS
  - 1. Public and Private Distinction
    - a. Limited Liability Corporation
      - 1) Liability
      - 2) Who Should Pay?
  - 2. Politics and Economics
    - a. Classical Tradition
      - 1) City (**Polis**); **Aristotle**
      - 2) Household (**Oikos**)
    - b. Biblical/Western Tradition
      - 1) Virtue vs. Corruption
      - 2) Trustee or Steward
      - 3) Community and Individuality (Proudhon vs. Tocqueville)
- C. MORALITY AND LIBERTY
  - 1. "Conscience Is the Most Sacred Property" (Madison)
  - 2. "Who Gets What, When, How?" (Lasswell)
    - a. Private Benefit
    - b. Public Treasury
    - c. Albert Jay Nock on Modern Politics
  - 2. Political Economy
    - a. Ethical Issues
- D. THE ONE AND THE MANY
  - 1. Who Benefits?
  - 2. Conflict vs. Harmony of Interests
  - 3. Hamarchy (Lieber)

II. AMERICAN POLITICAL CULTURE
- A. THE AMERICAN CHARACTER
  - 1. Individualism
    - a. Contrast with Selfishness
    - b. Effects
    - c. Loss of Community
  - 2. Character Types

- a. Tradition-Directed
- b. Inner-Directed
- c. Other-Directed

3. Absence of a Feudal Tradition
   - a. Pilgrims and Puritans
   - b. Frontier Society
   - c. Social Contract Theory
4. Status vs. Contract
   - a. Meritocracy
   - b. Privileges and Entitlements

III. AMERICAN CONSTITUTIONAL SYSTEM

A. CONSTITUTIONAL COMPONENTS

1. Guiding Principles
2. **Preamble**
   - a. Invocation
     - 1) **Mayflower Compact** (1620)
3. Bill of Rights
   - a. Massachusetts **Body of Liberties** (1641)
4. Separation of Powers and Checks and Balances
   - a. Restraint on Power
     - 1) William Blackstone
   - b. System of Overlapping Powers
5. Amendment
   - a. Constitutional Provision
     - 1) Constitutional Convention
     - 2) Individual Proposal
     - 3) Ratification
   - b. Interpretation
   - c. Treaties
   - d. Popular Initiative (states)
   - e. Popular Referendum (states)
6. Extraconstitutional Measures
   - a. Interposition
   - b. Nullification
   - c. Secession
   - d. Martial Law

B. ORGANIZING PRINCIPLES (DIVISIONS OF POWERS)

1. **Federalism**
   - a. Two Main Levels
     - 1) Divided Political Sovereignty
   - b. "Supreme Law of the Land"
     - 1) **Magna Carta**
     - 2) Sanctioning Land
     - 3) Common Law and Due Process

4) Super-Legislation
c. Alternatives
1) Monarchy
2) Feudalism; Confederation or League

2. **Bicameralism**
a. Two Chambers
1) Unicameral Legislature (Nebraska)
b. **Senate**
1) Designed to Represent the States
2) Two Senators
3) Restraint on Presidency and Judiciary
c. **House of Representatives**
1) Designed to Represent the People
2) Population
3) Money Bills

3. **Separation of Powers**
a. Branches
1) Legislative
2) Executive
3) Judicial
b. Constituencies
c. Modes of Selection and Terms of Office
1) Representatives
2) Senators
3) Presidents (**Electoral College**)
4) Justices

4. **Republican Principle**
a. Enhances Stability
b. Wise and Capable Leaders
c. Electoral College

5. Characteristics of a Desirable Constitution
a. Stability and Continuity
b. Division of Powers
c. Representativeness
d. Accountability

C. CONSTITUTIONAL THEORY
1. Locus of Sovereignty
a. Towns and Counties
b. State
c. People of the Several States
2. Division of Powers
a. Checks and Balances
b. Mixed Government
3. System of Overlapping Powers
a. Sovereignty

- b. Supreme Law of the Land
- 4. Separate Constituencies
- 5. Countervailing Power

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- 1. Legislation
  - a. Laws
  - b. Veto and Override
  - c. Executive Orders
  - d. Special Sessions
  - e. Tie-Breaking
- 2. Administration
  - a. Appointments
  - b. Civil Service
  - c. Bureaucracy
  - d. Power of the Purse
- 3. Jurisprudence
  - a. Judicial Review
  - b. Jurisdiction
  - c. Reversals
- 4. Constituent Power
  - a. Amendments
- 5. Foreign Affairs
  - a. Treaties
  - b. Executive Agreements
- 6. National Security
  - a. Impeachment and Trial
  - b. Pardons
  - c. War Powers
  - d. Police Actions
  - e. Emergency Powers
- 7. Conclusion

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- 1. Colonial Era
  - a. Royal Colonies
  - b. Proprietary Colonies
  - c. Charter Colonies
- 2. Powers of the President
- 3. Inherent Powers
  - a. Proclamation of Neutrality
  - b. Embargo
  - c. War Powers
- 4. Delegation of Powers

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1. Eligibility
2. Service in Elective Public Office
    a. Governors
    b. Senators
    c. Vice President
    d. Exceptions
3. Managers
4. Lawmakers

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1. Compensation and Perks
2. Removal and Succession
3. Executive Office of the President
4. Vice President
5. Cabinet
6. Independent Agencies

D. PRESIDENTIAL CHARACTER
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    a. Constitutional [Literalist, Passive]
    b. Stewardship [Effective, Active]
    c. Prerogative [Energetic]
2. James David Barber: Presidential Character
3. Psychobiography

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    a. Chief Diplomat
    b. Voice of the People [Popular Leader]
2. Chief Executive
3. Commander-in-Chief
4. Chief Legislator
5. Chief of Party

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A. DEVELOPMENT OF THE ADMINISTRATIVE STATE
1. The Clerisy
2. Ecclesiastical Institutions
3. Rise of the Nation-State
4. Dissolution of the Monasteries
5. Poor Relief Act of 1601
6. Early Charitable Societies

B. EVOLUTION OF AMERICAN BUREAUCRACY
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    a. Asylums
2. Jacksonian Populism
    a. Spoils System

b. Public Education
3. Liberal/Libertarian Moral Reform
a. Pendleton Act of 1883
b. Graduate Education
4. Libertarian Phase
a. Limited Liability Corporations
b. Economy and Efficiency Movement
c, Scientific Management Movement

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1. Progressive Movement
2. Regulatory Agencies
3. Progressive Income Tax
4. Federal Reserve Banks
5. Stock Market Crash
6. New Deal
7. Social Security Act
8. Great Society (Lyndon Johnson)
9. Managerial Revolution (James Burnham)
10. *Gemeinschaft* (personal, status) vs. *Gesellschaft* (impersonal, contract)

D. BUREAUCRATIC POLITICS
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2. Bureaucracy and the Policy Process
3. Client Groups
4. Congress
5. Iron Triangles or Subgovernments
6. Presidents
7. Government Employees
8. Cabinet Departments
9. Executive Agencies
10. Regulatory Commissions
11. Deregulation
12. Recruiting Bureaucrats
13. Civil Service Reform Act of 1978
14. Checks on Bureaucratic Power

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b. Constitution of 1876

- c. Maze of Bureaucracies
- 2. Prestige and Influence
- 3. Qualifications and Term of Office
- 4. Election and Compensation
- 5. Succession
- 6. Removal from Office
- 7. Staff

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- 1. Executive Powers
- 2. Appointive Power
  - a. Limitations
  - b. Senatorial Courtesy
  - c. Filling vacancies
- 3. Removal Power
- 4. Military Power
  - a. Adjutant General
- 5. Law Enforcement Power
  - a. Public Safety Commission
- 6. Budgetary Power
- 7. Legislative Powers
- 8. Message Power
- 9. Veto Power
  - a. Item Veto
  - b. Postadjournment Veto
- 10. Special Sessions
- 11. Judicial Powers
  - a. Appointment and Removal of Judges
  - b. Acts of Clemency
- 12. Informal Powers

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- 1. Lieutenant Governor
- 2. Attorney General
- 3. Commissioner of the General Land Office
- 4. Commissioner of Agriculture
- 5. Comptroller of Public Accounts
- 6. [Treasurer]
- 7. Secretary of State

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- 1. Boards and Commissions
- 2. Personnel
- 3. Texas State Employees Association

4. State Ombudsman
5. Growth of Bureaucracy

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2. Higher Education
a. Merger Politics
3. Ongoing Issues
4. Texas Higher Education Coordinating Board

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5. Air Pollution
6. Business Regulation

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1. Sunset Advisory Commission

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b. Consent
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d. Colonial Resistance
3. Legislative Dominance
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    a. Articles of Confederation
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    a. Fourteenth Amendment
    b. Seventeenth Amendment
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    b. Oversight
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    b. President Pro Tempore
    c. Majority and Minority Leaders

- d. Others
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  - a. Speaker of the House
  - b. Majority and Minority Leaders
  - c. Others
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  - b. Subcommittees
  - c. Special, Partisan, Joint, and Ad Hoc Committees
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- 1. Introduction
- 2. Assignment to Committee
- 3. Committee Action
  - a. Options
  - b. Logrolling
- 4. Scheduling Bills for Floor Action in the Senate
  - a. Unanimous Consent
  - b. Rescue
  - c. By-Pass
  - d. Suspension of the Rules and Discharge
- 5. House Rules Committee
- 6. Floor Debate
  - a. Filibuster
  - b. Cloture
  - c. Vote
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- 9. Results

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  - a. Federalist, no. 17
  - b. National Recovery Act
  - c. Fiscal Regulation
- 2. Commerce Power
  - a. Gibbons v. Ogden (1824)
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    - 2) Implied Powers
    - 3) Resulting Powers
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    b. House of Representatives
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    a. Legislative Redistricting Board
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    a. *Reynolds* v. *Sims*, 1964
    b. Gerrymandering
6. Senatorial Districts
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- 6. Statutory Law
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- 3. *Marbury* v. *Madison* (1803)
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- 6. National Government Strengthened
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  - a. *McCulloch* v. *Maryland* (1819)
- 2. Roger B. Taney
  - a. Dred Scott Case (1857)
- 3. Fourteenth Amendment
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- 4. Free Enterprise Capitalism
  - a. *Lochner* v. *New York* (1905): laissez faire
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    a. *West Coast Hotel* v. *Parrish*, 1937
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    a. Bao Dai and Ho Chi Minh
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    c. Lyndon Johnson: Escalation
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- a. Laissez-Faire Philosophy
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