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Recent Changes in American Constitutional Theory Study Guide

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John W. Burgess, RECENT CHANGES IN AMERICAN CONSTITUTIONAL THEORY

1. Why did Burgess regard 1898 as a turning point (1)? What is the thesis of the book? ["There remains hardly any individual immunity against governmental power which may not be set aside, at its own will and discretion, as government itself may determine."] What does he mean by saying that the government is now autocratic in principle (2)?
2. Identify the six fundamental doctrines of American political science (2-13).
3. What was the greatest danger to the doctrine of individual immunity in the nineteenth century and how was it manifested (3)? What was the remedy (4)? Where is sovereignty vested (4-5)? ["In our system individual liberty is not based on the benevolence of government, but on fundamental immunities against governmental power."]
4. Identify the six practical ways our constitutional system expresses these fundamental doctrines (14-34).
5. What is the "continuing Sovereignty (15)?" What provision of the Constitution may not be changed except by revolution (16)? Is there a constitutional right of revolution (17)?
6. Identify three general headings of express restrictions on the government. How are they defined and limited constitutionally (18-26)? How may treason be wrongfully used (22-23)?
7. What is the proper scope of martial law (30-31)? Where do the residuary powers of government belong (31)?
8. How did the United States unwisely pursue a bellicose program against Spain (36-38)? Identify three ways in which Theodore Roosevelt overreached his authority while serving as President (39-42).
9. How did the Rooseveltian Sixteenth Amendment radically alter the Constitution (43-51)? Why did the South desire an income tax that was subject only to the limitation of uniformity rather than proportionality (46)? What are the consequences of the Sixteenth Amendment (50-51)? What might result from the country's move toward compulsory socialism (52-53)?
10. How was the spirit of our constitutional immunities violated during the period preceding our entry into the First World War (55-56)? What was the effect of the Conscription Act on our constitutional immunities? What the most despotic power which may be exercised (56-63)? Does any bulwark of individual liberty against autocracy remain (63-64)?
11. Is the immunity against the power of the General Government to abridge freedom of speech or the press an absolute one? What are its limitations (65-69)? What is the character of martial law (71)? What is the danger of abuse of the war power (71-72)? What are the

proper avenues of resistance against deprivation of constitutional immunities (73-75)?

12. How did the Espionage Act of 1917 confuse the line drawn between revolutionary and loyal action (75-86)? What is the significance of the use of the word "war" in this legislation (79)? Does this give the power to government to suspend free speech virtually at will (79-80)? How has it modified the definition of "treason (81-82)?"
13. What have been the effects of the Eighteenth and Nineteenth Amendments (86-92)? Why has the latter Amendment favored compulsory socialism (89-92)? Why will it be difficult to reverse these changes (92-93)?
14. How is our constitutional independence threatened by the disposition subordinate our country to a world association of nations (94)? Do the President's powers as commander-in-chief pose a danger in this regard (95-96)? What are the dangers of abiding by the League Covenant (97-98)? How has our independence been threatened by extravagant foreign loans? Should these debts be forgiven (99-102)?