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State and Federal Government I Lecture Outline

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STATE AND FEDERAL GOVERNMENT

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   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)
         3) Virtue vs. Corruption
      b. Biblical/Western Tradition
         1) Trustee or Steward
         2) Community and Individuality (Proudhon vs. Tocqueville)
         3) Unity vs. Diversity
         4) Internal Self-Government -> External Liberty
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      a. Private Benefit
      b. Public Treasury
      c. Albert Jay Nock on Modern Politics
   2. Political Economy
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   1. Who Benefits?
   2. Conflict vs. Harmony of Interests
   3. Hamarchy (Lieber)

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   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

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1. Political Culture
2. A Nation of Immigrants
3. Reasons for Coming

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1. Separatists
   a. Pilgrims
   b. Mayflower Compact
2. Nonconformists
   a. Puritans
   b. Fundamental Orders of Connecticut
3. Dissenters
4. Catholics
5. Quakers
6. Pietists
7. Presbyterians
8. Episcopalians
9. Baptists and Methodists
10. Eastern Orthodox
11. Jews
12. Others

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2. Geopolitics and History
3. Four British Folkways
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5. Decentralization
6. Capitals
7. Stability

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2. Scots and Scotch-Irish
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4. Scandinavians
5. French
6. Hispanics
7. African-Americans
8. Irish
9. Germans
10. Southern and Eastern Europeans
11. Middle East and North Africa
12. South and East Asians
13. Ethnic Conflict

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1. Townships
2. School Systems
3. Legal Traditions
   a. Common Law
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2. State Traditions
3. New England
   a. Massachusetts
   b. Vermont, New Hampshire, and Maine
   c. Rhode Island and Connecticut
4. Middle Atlantic
   a. Maryland
   b. Delaware
   c. Pennsylvania
   d. New Jersey
   e. New York
5. South
   a. Virginia and West Virginia
   b. Kentucky and Tennessee
   c. North and South Carolina
   d. Georgia
   e. Florida
   f. Mississippi and Alabama
   g. Louisiana
   h. Missouri and Arkansas
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   b. Illinois
   c. Michigan
   d. Wisconsin
   e. North Dakota and Minnesota
   f. Iowa
   g. Kansas and Nebraska
7. Mountain West  
   a. Colorado  
   b. Wyoming and Montana  
   c. Utah and Idaho  
   d. Nevada  
8. Pacific Northwest  
   a. Oregon and Washington  
   b. Alaska  
9. California  
10. Hawaii  
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   a. Arizona  
   b. New Mexico  
   c. Oklahoma  

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   2. Population  
   3. Economic Regions  
      a. East Texas  
      b. Metroplex  
      c. Plains  
      d. Border  
      e. Central Corridor  
      f. Gulf Coast  
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   1. Prehistoric  
   2. Anglo-American Colonists  
   3. Lone Star Republic  
   4. Lower South and Upper South  
   5. African Americans  
   6. Mexicans  
   7. Germans  
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   1. Political Subcultures  
      a. Moralistic  
      b. Individualistic  
      c. Traditionalistic  
   2. Individualistic Conservatism  

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A. CONSTITUTIONALISM  
   1. Purpose  
   2. Consent of the Governed
a. Covenant
b. Unalienable Rights

3. Origins of Constitutionalism
   -- Pilgrim Code of Law (1636)
   -- Fundamental Orders of Connecticut (1638)
   a. Church Covenants
   b. Colonial Charters

4. Declaration of Independence
5. Constitution of 1787
6. Articles of Confederation (1781)
7. Subsequent Development
   a. New Goals
   b. Egalitarian and Individualistic Outlooks

B. THE FIRST CONSTITUTIONAL SYSTEM
1. Richard Henry Lee
   a. Basic Draft
2. Debate Over Independence
3. Declaration of Independence
   a. Slave Trade
   b. John Witherspoon
   c. Plea at Law Against the King
4. Unanimous Declaration
5. Articles of Confederation
   a. Unicameral Congress
   b. Limitations

C. THE PHILADELPHIA CONVENTION
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   a. Floor Debates: James Madison, George Mason, Gouverneur Morris, James Wilson, Roger Sherman, Elbridge Gerry
   b. Absentees: John Adams, Thomas Jefferson, and Patrick Henry
   c. The Delegates
   d. Robert Yates and John Lansing
2. Virginia Plan: Edmund Randolph
3. Proposed Amendments
   a. Popular Elections Issue: George Mason
   b. Single Executive: James Wilson
   c. Upper House: Mason and Gerry
5. Committee of the Whole
   a. Proportional vs. Equal Representation
   b. Franklin's Proposal
6. Compromises
   a. Connecticut Compromise: Roger Sherman
   b. Three-Fifths Compromise
   c. Commerce Compromise
   d. Electoral College
7. Fundamental Resolutions
8. The Great Debate
   a. Slavery
   b. Property Qualifications Rejected
   c. Immigration
   d. Army
   e. National Debt
   f. Export Taxes Outlawed
9. Committee on Style and Arrangement
10. Final Approval
11. Analysis

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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

E. 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

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

F. **FEDERALIST, NO. 10**
   1. Federalist Papers
   2. Purpose: Break and Control Violence of Faction
   3. Two Methods
      a. **Remove the Causes**
         1) Abolishing Liberty
         2) Creating Uniformity
b. **Control the Effects**
   1) Republican Principle
4. Tyranny of the Majority
5. Large Republic
   a. Built-in Diversity of Interests
6. Auxiliary Precautions (Checks and Balances)
7. Evaluation
   a. Deliberation
   b. Consensus or Unity

V. **CONSTITUTIONAL POWERS AND CUSTOMS**
A. **LAWS** (Art. I, sec. 1)
   1. Bills (Art. 1, sec. 7)
   2. Executive Orders
   3. Administrative Law
   4. **Executive Privilege**
B. **AMENDMENTS** (Art. V)
   1. Validity or Legitimacy
   2. Treaties
   3. Custom and Interpretation
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   1. **Executive Agreements**
   2. Compacts (Art. I, sec. 10)
D. **STATES**
   1. **Reserved Powers** (Tenth Amendment)
   2. **Denied Powers** (Art. I, sec. 10)
      c. Electoral College (Art. II, sec. 1)
      d. Guaranty Clause (Art. IV, sec. 4)
      e. Territorial Integrity (Art. IV, sec. 3; Art. V)
      f. Enclaves (Art. I, sec. 8; Art. IV, sec. 3)
      g. Immunity (Art. II, sec. 2; Eleventh Amend.)
      h. Extradition (Art. IV, sec. 2)
      i. Election of Senators (Seventeenth Amendment)
E. **THE PEOPLE**
   1. Elections (Art. I, sec. 2)
   2. Juries
F. **CIVIL LIBERTIES**
   1. Security from Discrimination
      a. Bills of Attainder, Ex Post Facto Laws
         (Art. I, secs. 9, 10; Art. III, sec. 3)
   2. Privileges and Immunities (Art. IV, sec. 2; Fourteenth Amendment)
   3. Liberty of Conscience and Expression
b. Peaceable Assembly (First Amendment)
4. Security in Person and Estate
   a. Keep and Bear Arms (Second Amendment)
   b. Quartering of Soldiers (Third Amendment)
   c. Searches and Seizures (Fourth Amendment)
   d. Takings Clause (Fifth Amendment)
   e. Procedural Rights (Fifth - Eighth Amendments)
   f. Penal Limitations (Eighth Amendment)
5. Sanctity of Property
6. Martial Law

G. THE JUDICIARY (Art. I, sec. 8; Art. III)
   1. Original Jurisdiction (Art. III, sec. 2)
   2. Restricted Appellate Jurisdiction (same)
   3. Judicial Review
   4. Judicial Legislation
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   2. Senatorial Courtesy
   3. Civil Service
   4. Independent Counsel

I. BUREAUCRACY (Art. I, sec. 8; Art. II, sec. 2; Art. III, sec. 1)
   1. Congressional Oversight
   2. Quasi-Legislative and -Judicial Powers

J. COMMERCE
   1. Regulation (Art. I, sec. 8)
   2. Subsidies and Privileges

K. FISCAL AND MONETARY POLICIES (Art. I, secs. 7, 8)
   1. Limits (Art. I, sec. 9)
   2. Income Taxation (Sixteenth Amendment)
   3. Money (Art. I, sec. 8, 10)
   4. Salaries (Art. I, sec. 6)
   5. Impoundment

L. CONGRESS AND THE PRESIDENT
   1. Legislative Powers of the President
   2. Special Sessions (Art. II, sec. 3)
   3. Tie-Breaking (Art. I, sec. 3)
   4. Veto (Art. I, sec. 7)
   5. Override
   6. Pocket Veto (Art. I, sec. 7)
   7. Setting the Agenda
   8. Elections
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2. Trial (Art. I, sec. 3)
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4. Qualifications; Punishments (Art. I, sec. 5)
5. Treason (Art. III, sec. 3)
6. Pardons and Reprieves (Art. II, sec. 2)
7. Amnesty
8. Contempt of Congress

N. WAR POWERS (Art. II, sec. 2)
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1. Special Interests
2. Length and Complexity
3. Amendments
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   a. Frontier Individualism
   b. Period of Reform
   c. Reapportionment
   d. One Man, One Vote
5. Texas Constitution of 1876

B. FEDERALISM AND INTERGOVERNMENTAL RELATIONS

1. Federalism
   a. Purpose

2. Classification of Powers
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   b. Exclusive, Concurrent, and Reserved
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   d. Elastic Clause (Art. I, sec. 8)
   e. *McCulloch v. Maryland* (1819)

3. Dual Federalism

4. Cooperative Federalism

5. Regulatory Federalism

6. Interdependence

7. Lower Levels of Government

8. Federal Balance of Power

9. Grants-in-Aid
   a. Agriculture
   b. Housing, Highways, Education, Public Welfare

10. Establishing National Standards

11. Information and Technical Advice

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C. INTERSTATE RELATIONS

1. Privileges and Immunities
   a. Limitations

2. Full Faith and Credit

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4. Guaranty Clause

5. interstate Competition

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   b. National Conference of Commissioners on Uniform State Laws
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A. POWERS OF CITY GOVERNMENT

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2. Dillon's Rule

3. Home Rule
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5. Consolidation
B. CITY CHARTERS
1. Special Act
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D. POLITICAL STYLES
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   a. Traditional Anti-City Bias
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   a. Councils of Government

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   b. Manipulation: Edward Bernays
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   7. Mormon Polygamy
      a. Mexican Cession of 1848
      b. Reynolds v. United States, 1878
   8. Cantwell v. Connecticut, 1940
   9. West Virginia State Board of Education
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   10. Regulation of Religious Practice
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6. Civil Rights Act of 1875  
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7. Plessy v. Ferguson, 1896  
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