Government Outline

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|  | UNIT I  CONSTITUTIONAL UNDERPINNINGS  *PURPOSE OF GOVERNMENT*  Two versions of social contract theory  Thomas Hobbes  *Return to state of nature without government* “Every man is against every man… and the life of man is solitary, poor, nasty, brutish, and short.”  *Power to a sovereign government authority* - *preferably a king* Enforcement of laws  Punishment of criminals  Defense of people from invasion  *Exchange of some citizen rights in order to have law and order*  John Locke  *Existence of government to guarantee peoples’ natural rights* Life, liberty, and enjoyment of personal property  *Power to the people* Making the laws  Agreement to follow the laws  Punishment of criminals by agreed upon system  *No restrictions on citizens without consent*          *B. FUNCTIONS OF GOVERNMENT*  Protection of people from each other and outsiders  Protection of individual rights and liberties  Provision of public goods and services  Examples  *Parks and monuments  Environmental regulations  Anti-trust policies  Interstate commerce policies* Examples of assistance to selected groups  *Welfare  Medicare and Medicaid  Agricultural subsidies*  *C.    POLITICAL IDEOLOGIES* Establishment of a set of beliefs about government policy  Conservatism  Beliefs  *Opposition to government intervention in the economy  Opposition to government-sponsored social programs  Support for government intervention to uphold morality  Support for a strong military*  *Support for the use of force as a means to attain an end  Support for a balanced budget  Support for limited taxation*  Liberalism  Beliefs of *classical liberalism* of the nineteenth century  *Minimal government involvement in social and economic lives of individuals and groups*    Beliefs of modem liberalism of the twentieth century  *Support for government intervention into the economy  Support for government-sponsored social programs  Opposition to government interference with personal morals or activities  Opposition to expansion of the military*  Libertarianism    Background  *Acceptance of Locke’s emphasis on basic rights  Acceptance of Adam Smith’s view of the free market* Beliefs  *Support for a very limited government  Provision for national defense  Protection of liberty and freedom of trade  Opposition to government economic and social programs  Abolition of nearly all government departments  Opposition to laws against victimless crimes  Opposition to military intervention*  Socialism  Divisions  *Democratic socialism* Examples *in governments of Great Britain, Germany, France, and Scandinavian nations*  Beliefs  *Support for the democratic system  Support for government regulation and ownership of major industries  Support for regulation of production and distribution of goods and services  Support for government planning to protect citizens’ welfare and interests*  *Totalitarian socialism* - *Communism* Examples *in governments of People’s Republic of China and former communist regimes in Eastern Europe* Beliefs  *Support for revolution against the existing system with a dictatorship of the proletariat  Support for government regulation and ownership of industry  Support for government planning to protect citizens’ welfare and interests*  *D. CLASSIFICATIONS OF POLITICAL SYSTEMS*  Anarchy  Characteristic  *Absence of a coordinating governing body* Examples  *Lebanon 1980s  Somalia 1990s*  Theocracy  Characteristics  *Control of political power by the clergy  Superiority of church law to civil law* Example  *Puritan rule in Early Colonial New England*  *Pure Democracy (Direct)*  Characteristics  *Direct citizen participation in daily government decisions  Use of the initiative, referendum, and recall on state and local levels* Examples  *Colonial New England town meetings  Ancient Athens*  Representative Democracy - Republicanism  Characteristic  *Election of government officials to manage affairs* Example  *United States of America* Theories of America’s representative democracy  Majoritarian  Representation of the will of the majority  Pluralist  *Competition among organized pressure groups for superiority  Advocacy of group participation*  Elite  *Domination by rich and powerful serving their own needs*  Absolute Monarchy  Characteristics  *Government authority independent of subjects and descending from God  Rule by a hereditary king or queen with unlimited powers* Example  *Louis XIV* - *France  King Abdullah Saudi Arabia*  Constitutional Monarchy  Characteristics  *A government within the framework of a constitution  Rule by a hereditary king or queen with limited powers* Examples  *Great Britain  Denmark*  Dictatorship  Characteristics  *Imposition of government decisions by force  No consent of the governed* Examples  *USSR under Joseph Stalin  Iraq under Saddam Hussein*  *E. FIRST GOVERNMENT OF THE THIRTEEN STATES*  Articles of Confederation (1781-1789)                                                                                                                                                                        Delay in ratification by Maryland  *Concern with western land claims of some states* Structure of union  *“Firm league of friendship”* Naming of the league - United States of America  *Importance of sovereignty and independence for each state  Retention of powers not expressly delegated to national government by states*  *“Committee of the States”* Membership  *One delegate from each state* Power  *Execution of the laws during recesses of Confederation Congress  Creation of a national unicameral (one house) legislature  Selection of delegates  Decision by individual states  One vote per state  Selection of President of Congress by congressional delegates annually  Handling of three major functions by committees*  Foreign affairs *Receiving of Ambassadors  Negotiation of treaties*  Military *Raising of an army  Request to states for troops* Financial  *Borrowing of money* Establishment of value currencies  *Fixing of uniform standard of weights and measures*  Weaknesses *Inability of Congress to lay and collect taxes  Inability of Congress to regulate interstate and foreign commerce  Need for agreement by nine states for any action  Need for unanimous agreement among the states to amend the Articles  Absence of a National Judiciary and Executive  One vote per state regardless of population  Retention by states of all powers not expressly given to Congress  No power to act against an individual state  Election of delegates for a one year term*  Problems of the nation (1781-1789)  *Bankruptcy of national government  Receipt of only 1/4 of expected $10 million from states  Inability to pay interest on foreign loans  Defeat of proposed tariff on imports by one vote  Trade wars among the states  Charging of state fees for permission to trade  Closing of ports to foreign trade  Continuing inflationary spiral*  *Printing of massive amounts of some state currencies  Refusal of some states to accept other states’ currencies  Fear of further uprisings after Shays’ Rebellion*  Search for solutions   Mount Vernon Conference (1785)  *Discussion by Maryland and Virginia on Potomac River trade* Call for a meeting at Annapolis by Virginia (1786)  *Acceptance of five states  Discussion of trade problems  Suggestion by Alexander Hamilton for a meeting to revise the Articles of Confederation*  F. CONSTITUTIONAL CONVENTION AT PHILADELPHIA             (MAY 1787)  Attendance  *Fifty-five men from all states except Rhode Island  Adoption of rules of organization and procedure  One vote for each state delegation  Necessity of seven states for a quorum  Majority vote to pass measures  Requirement of secrecy  No official record of proceedings  Knowledge of actions from personal notes on proceedings by James Madison  Selection of George Washington as President*  Redefinition of the purpose of the Convention  *Writing of a new document*  Picture of the delegates  *White Protestant males  Men of wealth  Many with some college education  Men of distinction  Future presidents  Future state governors  Future Chief Justices of Supreme Court  Revolutionary War veterans  Previous service in Colonial Assemblies and/or past Congresses and/or State Constitutional Conventions*  Shared beliefs of the delegates  *Need for stronger national government  Belief in republican form of government  Agreement with John Locke’s “Theory of Rights”  Support for Montesquieu’ s  separation of powers*  Sources of Ideas  *Governments of Ancient Greece and Rome*  *English heritage*  *Limited government and limitations on executive authority  Magna Carta (1215)  English Bill of Rights (1689)  Representative government  Bicameral legislature  Appointment of judges by the Crown with no power of removal by the Crown  Basis of decisions of judges on precedents (Common Law)  Authority on many issues to local government units*  *Political writers*  *John Locke  William Blackstone  Baron de Montesquieu  Jean Jacques Rousseau*  Previous experiences  *Colonial governments*  Colonial Charters  *Statement of agreement between colonists/company and the Monarch  Guarantee of certain rights and privileges* Three branches of government  Bicameral legislatures except for Pennsylvania  Legislative “power of the purse” to limit the power of the Governor  Limitation on right to vote  *Property holding white males  Often requirement of membership in certain churches* Authority to local governments  *Principles of the Declaration of Independence  Equality  Inalienable rights  Life  Liberty  Pursuit of happiness  Powers from the consent of the governed*  *State Constitutions  Use of conventions to draft and ratify  Establishment of representative democracies  Principles of separation of powers and checks and balances  Power to legislatures (most bicameral)  Limitations on the governors  Inclusion by seven states of a Bill of Rights  Some limitations on suffrage*  *Previous attempts to unify the Thirteen Colonies  Dominion of New England (1684)  Albany Plan of Union (1754)  Stamp Act Congress (1765)  First Continental Congress (1774)  Galloway Plan of Union (1774)  Second Continental Congress (1775-1781)  Articles of Confederation (1781-1789)*  *Controversy between the big and small states*  *Support of big states for the Virginia Plan*  *Separation of powers  Bicameral legislature  Representation by population  Election procedures    Direct election of lower house members by the people    Direct election of upper house members by members of the lower house from a list of    nominees from state legislatures*  *Additional powers beyond Articles  Overriding of vetoes  Use of veto in cases where state laws in conflict with national laws  Use of force to make a state obey the national law  Right to legislate whenever “separate states are incompetent”*  *One term executive                                      Selection by the legislature Power to execute the laws  National Judiciary    Selection by legislature    Power to veto legislative acts  “Council of Revision”     Combination of Executive and members of the Judiciary     Power to veto congressional legislation*  *Support by small states for the New Jersey Plan (Paterson)*  *Separation of powers  Unicameral legislature  Equal representation for each state  Additional powers to the Articles  Enforcement of tax assessments  Regulation of interstate commerce  Plural Executive    Selection and removal by Congress  Federal Judiciary    One Supreme Court or Tribunal  Appointment by Executives*  *Major stumbling block between the Virginia and New Jersey Plans*  *Issue of representation  “Bundle of major compromises”*  Representation (Great Compromise) - Connecticut Plan  *Bicameral legislature*  *Representation by population in the House of Representatives  Taking of a national census every ten years*  *Equal representation (two) for each state in the Senate*  Slavery (3/5s Compromise)  *Support in southern states for counting of 3/5s of slaves for representation*  *Support in the northern states for counting of 3/5s of slaves for taxation*  Commerce  *Granting of power to regulate foreign and interstate commerce to Congress*  *Support from northern business interests*  *Fear of southerners  Support for export as well as import duties by the national government  Major export of the nation - southern tobacco  Intervention by Congress to stop the slave trade*  *Assurances to the South  Prohibition on export duties  No prohibition of the slave trade until 1808*  Executive  *Indirect selection of one Executive by an Electoral College  Unlimited number of four year terms  Enumerated powers  Evidence of the fear of popular citizen control*  *Selection of Senators by state legislatures*  *Selection of President by Electoral College*  *Difficulty of amending process*  *Proposal by two-thirds of Congress or state conventions*  *Ratification by three-fourths of the state legislatures or state conventions*  Ratification  *Need for acceptance by nine states to go into effect*  *Importance of support from big states  Fairly easy passage in Massachusetts and Pennsylvania  Close vote in New York and Virginia*  *Emergence of two camps in each state*  *Supporters - Federalists  Spokesmen for a strong national government  James Madison  Alexander Hamilton  John Jay  Tactics:  Emphasis on weaknesses of Articles of Confederation and resulting problems  Publishing of letters to the people in newspapers (Madison, Hamilton, and Jay) to turn the tide in New York  Later compilation into The Federalist Papers  Request for vote by state conventions rather than state legislatures or a referendum  Insistence on a vote on the entire document not individual sections  Opponents* - *Anti-Federalists  Spokesmen for states’ rights  Patrick Henry  John Hancock  Richard Henry Lee  Samuel Adams  Tactics:  Emphasis on the powers given to the national government at the expense of the states  Revival of fears of a strong Executive  Threat of the loss of rights with the absence of a Bill of Rights*  *Ratification of eleven states by September 1788  Selection of New York City as temporary capital  Election and inauguration of George Washington as President  Ratification by 1790 of all thirteen states*  *G. BASIC PRINCIPLES OF THE CONSTITUTION  Representative government  Selection of representatives in “free” and scheduled elections  Governing with the consent of the governed  Federalism  Distribution of powers between a central government to which citizens can turn for  policy goals and regional governments  Local government  State government  National government  Compromise between dictatorial national government and independence of the states Historical pattern of increasing the powers of the national government at the expense  of local autonomy*  *Three kinds of powers at the national level  Expressed powers  Enumerated powers in the Constitution  Implied powers  Suggested powers from those enumerated  Inherent powers  Exercise of certain powers in foreign policy because a sovereign nation in the world*    *Reasons for the growth of the national government’s power  National scope of many problems  Dependency of the states on federal funds  Unequal distribution of wealth within the states  Inability of states to deal politically with some problems  Statements of “power” to the national government in the Constitution  General welfare clause  Commerce power  Defense of the nation  Necessary and proper clause  Court’s role in ongoing debate over Federalism  Consistent narrowing of states’ constitutional rights*    *Argument of states for more power with statement in the Tenth Amendment  Denial of powers to the national government in the Tenth Amendment (1791)  “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”  No power to destroy the federal system  Duties of the national government to the states  Guarantee of territorial integrity of the states  Guarantee of a republican form of government  Protection of each state against invasion  Attack on one an attack on all  Protection against domestic violence within a state  Most often in response to a request by a governor or legislature*  *Examples of federal intervention into states over objections of governors  Pullman Strike (1894)  Little Rock Crisis (1957)  University of Mississippi (1962)  University of Alabama (1963)*  *Assistance with natural disasters  Congressional power to admit new states  Establishment of criteria in Northwest Ordinance (1787)*  *Denial of powers to the states  In the Constitution:  No coining or printing of money  No levying of tariffs  No keeping of troops in peacetime  No signing of agreements with other nations or states without consent of Congress In Constitutional Amendments  Thirteenth Amendment (1865)  No slavery  Fourteenth Amendment (1868)  No depriving of life, liberty, or property without due process of law  No denial of equal protection of the laws  Fifteenth Amendment (1870)  No denial of the right to vote based on race  Nineteenth Amendment (1920)  No denial of right to vote based on gender  Twenty-sixth Amendment (1971)  No denial of the right to vote for citizens eighteen years of age and older  No power to destroy the federal system*  *Powers of the states  No enumerated powers in the Constitution  Basis in the Tenth Amendment*  *Major responsibilities of the states*  *Education laws*  *Marriage laws*  *Voting and election laws*  *Property laws*  *Public safety laws*  *Welfare of citizens*  *Regulation of intrastate trade and business*  *Establishment of local units of government*  *Collection of state taxes*  *Relations among the states  In the Constitution:*  *Full faith and credit*  *Privileges and immunities*  *Extradition*  *Drafting of interstate compacts  Increase in recent years with regional problems and urban sprawl  Acid rain  Nuclear waste sites*  *Concurrent (shared) powers of the national and state governments  Powers not denied to the states or given to the national government  Examples:  Collection of taxes  Making and enforcing of laws  Borrowing and spending money  Regulation of commerce  Control of intrastate by state governments  Control of interstate and foreign by the national government*  *Dependency of state and local governments on federal funds*  *National grants-in-aid  Education  Welfare  Highway construction  Urban renewal*  *Categorical grants  Most federal aid to state and local areas in this form  Criteria for receiving aid  Use for specific purpose only  Requirement of matching funds  Establishment of agency to manage grant money  Submission of plans with standards and expected results  Acceptance of all federal guidelines*  *Block grants  Use by state and local governments with fewer criteria  Areas of public health, services, education, community development, energy assistance  Reasons for support of national grants  Equalization of resources among the states  Maintenance of minimal standards for services  Establishment of nondiscriminatory standards  Provision for otherwise unaffordable services*  *Reason for opposition to national grants  Opportunity for too much interference and authority by the national government*  *New revenue sharing plan in federal/state relations  State and Local Fiscal Assistance Act (1972)  Share of federal tax money to state and local governments  One-third to state governments  Two-thirds to local governments  Few restrictions on use of the money*  *Assistance of the states to the national government  Conducting of elections at state and local expense  Processing of citizenship through the state courts*  *Explanations for the separation of powers  Insurance against any one branch gaining too much power  Different constituencies for different branches of government  Different terms of office for different branches of government*  *Checks and Balances  Protection against the abuse of power by any one branch*  *Executive  Checks on Congress  Proposal of legislation  Vetoing of legislation  checks on Judiciary  Appointment of federal judges  Enforcement of court decisions*  *Congress  checks on Executive  Overriding of presidential veto  Impeachment and removal of the President  Ratification of presidential appointments (Senate)  Ratification of treaties (Senate)  Authorization/appropriation of funds for legislation  Legislative veto  checks on Judiciary  Impeachment and removal of judges  Confirmation of federal judges (Senate)  Use of the amending process*  *Judiciary  check on Executive  Review of actions  check on Congress  Review of laws*  *THE LIVING CONSTITUTION*  *Creation of a government “for the ages”  Safeguarding of the Republic with checks and balances  Provision for an amendment process easier than the process in the Articles of Confederation  Brevity of wording with potential for interpretation  The elastic clause  “To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.”*  *Question of definition of “necessary and proper”  Acceptance of interpretation of Chief Justice John C. Marshall  Consistency of means and ends “with the letter and spirit of the Constitution”*  *Provision for amendment process  Call for amendment  2/3 vote of House of Representatives and Senate  Convention held at request of 2/3 of states*  *Ratification  3/4 of the state legislatures  3/4 of statewide popular conventions as prescribed by Congress or the proposing convention  Ratification of only Twenty-first Amendment by popular conventions*  *Informal ways to amend the Constitution*  *CONGRESSIONAL ELABORATION*  *Actions of Congress Passage of laws  Giving precise form to government structure  Creation of the federal court system  Creation of agencies and commissions  Clarification of enumerated and implied powers in Constitution*  *PRESIDENTIAL  PRACTICES*  *Actions of the Executive  Drafting of Executive Agreements -foreign affairs  Compact between the President and another Head of State  Power as Commander-in-Chief  Use of troops without congressional approval  Executive Orders- lawmaking*  *Executive Privilege-withholding information*    *JUDICIAL REVIEW*  *Actions of the Courts  Use of power of judicial review  Statement by Alexander Hamilton in The Federalist No. 78 darifying the Judiciary’s role in interpreting the Constitution  Initial application with Marbury v. Madison, 1803*  *CUSTOM AND USAGE*  *Actions of political parties  Party divisions and arrangements in Congress  Unwritten traditions  Precedent of two term presidency  Creation of the Executive Cabinet  Establishment of the congressional committee system*  *Arguments over interpretation of the Constitution*  *Strict interpretation  Belief that the powers of national government derive from the states  McCulloch v. Maryland, 1819   Loose interpretation  Limitation of the idea of states’ rights*  *Establishment of idea of implied powers with inclusion of the necessary and proper clause*  *Changes during post Civil War Era  Concept of dual federalism  Separation of national and state governments into distinct spheres without overlap                                   Role of Supreme Court  Support for laissez-faire  Application of Fourteenth Amendment to support “Big Business”  Consistent invalidation of state regulations on business  National government actions under interstate commerce  Creation of Interstate Commerce Commission (1887)*  *Changes during the New Deal  Aggressive intervention of the national government*  *Opposition of Supreme Court until 1936 election  New interpretation of commerce clause  Changes after World War II  Cooperative Federalism  Shared responsibility between national and state governments  Fiscal Federalism  Categorical grants  Determination of state actions by federal spending options  Block grants  More freedom for state and local governments in spending federal money  Crossover sanction  Linkage of federal money to specific required state action  Federal pre-emption  Result of supremacy clause*  *Agreement of states to federal action  Areas of concern  Pollution control  Civil rights  Health and Safety  Regulation of business  Lack of federal funds to implement*  *Weaknesses of the Constitution  Complexity  Potential for citizen apathy  Difficulty of agreement on policy  Difficulty of implementation of policy  Lack of fiscal responsibility  Lack of legislative accountability  Difficulty of amending process  Lack of clarity in protection of rights of minorities  Competition between levels of government:  Services  Taxes  Citizen assistance*  *Strengths of the Constitution  Flexibility  Variety of places for citizen input  Potential for experimentation at various levels  Variety of citizen choices  Variety of bases of political power*  *THE UNITED STATES CONSTITUTION*  *Article I - Legislative  Acceptance of two house (bicameral) plan  House of Representatives  Senate*  *Enumerated powers  Senate only  Trials for all impeachment cases  Ratification of presidential appointments  Ratification of treaties  House of Representatives only  Origination of all revenue bills  Impeachment of all officials  Both Houses of Congress  Lay and collect taxes, duties, imposts, and excises  Pay the debts  Provide for the common defense and general welfare  Borrow money on credit  Regulate commerce  Foreign nations  Among the several states  Indian tribes  Establish uniform rule on naturalization  Establish uniform laws on bankruptcies  Coin money, regulate the value thereof  Fix standard of weights and measures  Provide for punishment of counterfeiting  Establish post offices and post roads  Provide for progress of science and useful arts  Patents  Constitute tribunals inferior to the Supreme Court  Define and punish piracies and felonies on the high seas  Declare war  Grant letters of marque and reprisal  Make rules concerning captures on land and water  Raise and support armies  Provide and maintain a navy  Make rules for the government and regulation of the land and naval forces  Provide for the calling forth of the militia  Provide for organizing, arming, and disciplining the militia  Exercise exclusive legislation in all cases over the district seat of the national government  Elastic clause (- implied powers ) Make all laws necessary and proper for execution of powers*  *Changing of powers by Amendments  Thirteen  Fourteen  Fifteen  Sixteen  Article II- Executive  Election by Electoral College  Formal enumerated powers  Serve as commander-in-chief of the army and navy and militia  Require in writing the opinion of the principal officer in Executive Departments  Grant reprieves and pardons  Make treaties with advice and consent of two-thirds of the Senate Appoint ambassadors, public ministers and consuls, justices of the Supreme Court with advice and consent of two-thirds of the Senate  Fill vacancies during recess of the Senate  Deliver a State of the Union Address  Call special sessions of Congress  Receive ambassadors and other public ministers  Execute the laws  Commission all officers of the United States  Changes in power - basis in interpretation of individual President*  *Article III - Judiciary  Establishment of Supreme Court  Creation of Lower Courts by Congress  Jurisdictions of the Supreme Court  Original  Appellate  Changes in power  Introduction of judicial review with Marbury v Madison, 1803*  Article IV – *State to State Relations (Horizontal Federalism)* *Full faith and credit to acts, records, proceedings of one state by any other state  Entitlement to all privileges and immunities of citizens in the several states  State extradition  Criminals  Persons held to service or labor (slaves)  Control of territories by Congress  Guarantee of republican government*  *Article V - Amendments  Two means of proposing constitutional amendments  Two-thirds of both houses of Congress  Two-thirds of specially called state conventions  Two means to ratify a constitutional amendment  Three-fourths of state legislatures  Three-fourths of state conventions*  *Limitations  No actions against the slave trade until 1808  No loss of a state’s two votes in the Senate without its consent*  *Article VI- The Supreme Law Actions under Confederation binding under Constitution  Recognition of the Constitution as the supreme law of the land  No religious test for office*  *Article VII- Ratification  Need for approval by nine states*                                      Last Modified on September 26, 2005 |
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