



Max M. Kampelman Papers

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Bennington College

April 5, 1949

TO: *Mr. Kampelman*
FROM: Student Personnel Office
RE: Class lists.

Enclosed are the lists of students who have registered for your courses this term.

Please check these lists and report any discrepancies to this office immediately.

The following students are registered for tutorials with you:

Inge Chwang

Class lists, 2nd term, 1948-49

Man and the State

Joyce Berger ✓
Reva Brown ✓
Suzanne Bunker ✓
Ann Chatfield ✓
Janie Kebbon ✓
Joan Pauley ✓
Jeannette Peirce ✓
Susan Pollard ✓
Patricia Potter ✓
Barbara Ushkow ✓
Franny Wales ✓
Frances Wells ✓

Problems of Democracy

Joan Borden ✓
Phebe Brown ✓
Doris Chapman ✓
Carol Diamond ✓
Sally Eastman ✓
Joan Glover ✓
Martha Irvin ✓
Phyllis Jones ✓
Judith Kanin ✓
Suzanne Lemberg ✓
Petrie Manning ✓
Georgian Maxfield ✓
Elizabeth Palmedo ✓
Ruth Rigler ✓
Marilyn Rutz ✓
Judith Seaver ✓
Carol Spence ✓
Anne Whittier ✓
Elizabeth Winslow ✓

FR 1-10

'RAINMAKER' THREATENED

1947
Topeka Ball Club Says It Will
Sue Paper if It Stirs Showers

TOPEKA, Kan., Aug. 13 (AP)—An attorney for the Topeka Owls baseball club of the Western Association threatened court action today if The Topeka State Journal "persisted in its announced plan" to produce a rain this week by the dry-ice method.

"As you undoubtedly know, falling water and wet grounds are not conducive to the best interests of the business in which Mr. Raymond Murphy, owner of the Topeka Owls, has a sizable investment," a letter to the newspaper from Harlow Preston, Topeka attorney, stated today. "Mr. Murphy has a right to the free and uninterrupted use of the hot and dry atmospheric conditions which he has learned to love and enjoy here in Topeka without being molested by busybody rainmakers with high falutin' methods."

A representative of the newspaper said today that it would restrict its rain-making efforts to the daytime hours rather than at night when the Owls perform.

Fall in Home Kills Man, 72

Special to THE NEW YORK TIMES.

MILLBURN, N. J., Aug. 13—

In the designation "Political Science", neither the concept "political" nor the concept "science" have any fixed connotation.

One of the first instances of the appearance of a separate body of Political Science was in the days of the Greeks, whose observations, however, were limited to the city-state. They saw the need for a separate and distinct body of theory to deal with politika, the totality of state phenomena.

The Greek Sophists were interested primarily in training their pupils for an active political career and so stressed appropriate courses of action for aspiring to power.

Their educational training embraced such diverse fields as math, botany, medicine, zoology and astronomy as well as economics, pedagogy, ethnology and the science of war. ...Primary attention was given to developing the art of rhetoric for the capacity to sway the masses by means of oratory was the chief prerequisite in a successful political leader.

When Aristotle and Plato came on the scene, stress changed from "how one can act and speak with the greatest influence in affairs of state" to considerations of broad ethical foundations, the inculcation of ethical norms relating to the state. Plato's chief work REPUBLIC dealt with questions of morally best state.

Aristotle also assumed that the ultimate aim of political science was to delineate the ideal state, but this aim could be realized only by first bringing together a comprehensive body of factual material. He investigated and

produced an exhaustive and precise description and criticism of the historical state constitutions of the Athenians, the Spartans, the Cretans and the Phoenicians. He thus laid the foundations of a historical-descriptive science of politics.

Aristotle also recognized the relationship of sociological relationships and explanations to political phenomena. He explained, ie, organization of Athenian state recognizing importance of political and social struggles between nobles and non-nobles, rich and poor.

Thus already in Greek antiquity a political science developed revealing in content and method marked diversity and range similar to those found at the present day: (Depending on investigator; a guide to political power; a course of civic training; a moral philosophy; a historic metaphysic; a sociology.)

Nevertheless, during the days of Plato and Aristotle, the problem was much simpler.. All of the exact, natural and social sciences were embraced by PHILOSOPHY. It was thus possible for Aristotle to encompass the entire knowledge of his day, natural, social and philosophical.

Modern instances of this are rare. In these days of specialization, synthesis becomes increasingly difficult. Much of this is of course due to the enormous accumulation of factual material as well as to diversification in method.

The result is a store of knowledge so stupendous in quantity and so varied in range that human ability does not suffice to acquire a thorough mastery of more than a limited field.

Scholars adjusted to this fund of knowledge by selecting and specializing.

What happens now is that the parts selected for detailed mastery become themselves so large that one is precluded by limits of time and ability from extending one's own range.

In medicine alone, one specialist often knows less about another's field than a philosopher used to know about medicine. Even in so recent a branch of biology as genetics, one geneticist finds it difficult to keep abreast with the writings of another one.

Thus, the social sciences split off, one from another; each slowly leaving their philosophical matrix and rapidly developing their own methods and techniques, returning to philosophy only for an occasional theoretical and speculative rehauling.

And so in academic institutions we have history, sociology, political science, economics, anthropology, psychology....The political science associations meet apart from the political economy societies and social workers apart from sociologists.

This splitting off was necessary. As to whether it was detrimental or advantageous, there are elements of both. For one, these departments and societies develop loyalties as well as jealousies and at times assume the features of esoteric cults., with each particular group trying to herd in a part of human knowledge and build a fence around it....But it is desirable and advantageous in its results in achieving additional knowledge in helping man know more to solve his problems.

Only about 50-60 years ago, the term "Political Science" was used in American and European universities to cover such subjects as history, politics, economics, public law and jurisprudence.

WHAT IS POLITICS?

Because of its philosophical tradition, politics has often been accused of being guilty of abstraction. This accusation has hit home and there has been developing within the past decade a realization of the need to make politics imperative, a science.

One of the first steps in this development is accurate terminology and so we ask what is politics?

Definitions, of course, change as our knowledge and experience increase. Hence ~~Magic~~ could once be included in term chemistry and no more.

Think of it
Layman's definition:: A politician is one who stands for election at the polls or manages those who stand at the polls (Farley). He is one who is much preoccupied with electioneering issues and those issues stand for politics.The term "statesman" is reserved for those more wise and public spirited persons who give direction to the government of the country. (Statesman=politician whose dead).

Nevertheless, it will be clear that Politics embraces more than a war between political parties.

Old textbook definition: Either the activities of political life or the study of those activities. They meant by this a study of the various governmental organs. Thus a politician is one who takes an active share in the work of ruling; a member of Congress. This directs our attention to the executive, legislative and judiciary.

who?
But by implication, it excludes from politics those who have a legitimate right to be in it. (the candidate who loses, many will say, is no less a politician)

The electorate is thus excluded from the field of politics. And in a modern democracy it is the body of citizens who are perhaps most political.

They make their opinions felt; they elect; they assist in maintaining law; serve in armed forces; pay taxes; obey regulations.

So that politics is more than just a study of Gov't and politicians are more than those engaged in governmental activities....Is it study of the Whole State???

A study of anthropology reveals customary law is not connected with the life of the state and indeed preceded the organization of States. (Malinowsky).....Much early law is obeyed out of religious motives or emanates from authority of a Church or family. (*law higher than state: coal mines; cigarette in Blum, OPA; CO2*)

In other words, the essence of rule, the control of one human being by another, is found quite apart from the authority of the state. (first, rules of game, trade unions, rotary club et al.)

The State then is only the most striking example of political activity and not all of it.

Aristotle's Definition: Politics is activities of the Community, and he differentiated clearly between the state and community.

Yet here too, we would only be studying an example and not the activity itself...Furthermore, we would find ourselves concerned with a myriad aspects of the community and find we are studying all of human life itself...Politics must be more narrowly defined. "We would only want to study the political aspects of the community (altho the political aspects are related to the other, they must be distinguished.)"

What is Politics?

When we observe the life of men around us, we cannot fail to be struck by two facts: Men generally like to have their own way in thinking and acting and yet in society as we know it, everybody cannot have his own way, because one man's wishes may be in conflict with another's. (A man in love with woman who is not, or 2 men in love.)(traffic snarl). The relations of the individual members of society with one another, therefore, need regulation by gov't.

When a body of people are clearly organized as a unit for purposes of gov't, then they are said to be politically organized. There is a group with authority to make and enforce laws and is in the habit of receiving some obedience from the members of the society whom they govern.

The activity of politics then is that of control, of "gov't" in the broadest sense of the term. Politics is a study of the act of control.

What do we mean by control? Domination is one means; that includes physical, financial mastery, moral tyranny.

But control can also be achieved by cooperation. In fact, there is reason to believe it is a more desirable form of control because the element of friction, resistance of will and would be rebellion is reduced to a minimum.....Cooperation represents a stabilized harmony of wills.

THE SUBJECT MATTER

There are 2 main subdivisions: Political theory and Political Organization.

Political theory is primarily concerned with the purpose which man proposes to himself as a moral being, living in association with other moral beings. It asks: what are the purposes of political organization and what are the best means of realizing them? The individual wants to realize his best self; to what extent can the State help him in this? What is the nature of the authority of the state? Has the State, for instance, unlimited power to regulate the thought and activities of individuals or are there limitations to its powers? Has the individual rights against the state?

The fundamental problem of political theory thus is the reconciliation of the authority of the State with the liberty of the individual.....For this, it is necessary to study history of states and forms of gov't, as well as alternative political theories, for the freedom of the individual is considerably affected by the form of gov't under which he lives.

Political theory is thus concerned with the formulation of the ends and limits of state authority.

Associated with this is an analysis of gov't and its working, political organization. Since the forms and working of gov't have differed from monarch through aristocracy, democracy and growing totalitarianism, we study them all plus a study of the infinite varieties of modern government.

The student can then be in a position to formulate principles concerning the workings of gov't, its structure and organization..... to evaluate different forms and theories of gov't.

RELATION TO OTHER FIELDS

Political science is not the only science which deals with men in organized society for there are social as well as political organisms...Although autonomous in the sense that it is not a part of any other science, it does not stand entirely unrelated to other sciences any more than the state stands isolated; in the universe of phenomena....We can no more understand political science as the science of totality of state phenomena, without a knowledge of the allied sciences or disciplines, than we can comprehend biology without chemistry, or mechanics without math.

Political science is closely connected with economics, the science of wealth; with law, which occupies itself principally with the relations of citizens to one another; history, which furnishes the facts of which it has need; with philosophy, especially morals, which gives to it a part of its principles.

P!S! must, therefore, regard the allied social sciences as working partners in the achievement of what is, in large measure, a common task.

SOCIOLOGY:

It is the science of men in their associated processes, society viewed as an aggregate of individuals, while political science deals with a particular portion of society viewed as an organized unit, concerned with men only as they have become organized.....Though they touch at a number of points and in fact the political stems from the social, their spheres are pretty definitely differentiated. Hence it is not ~~interrelated~~ working on why men is a political animal but simply assumes that he is. But he must be interested in that fact.....PS and Soc. are thus mutually contributory one to the other....Sociology derives from

PS knowledge of the facts regarding the organization and activities of the state, while PS derives in large measure from soc its knowledge of the origin of political authority and the LAWS OF SOCIAL CONTROL. The Sociologists can help PS by providing a more complete analysis of the factors which affect the life of man in society (marriage, family, religion, crime)

HISTORY

It is a record of past events and movements, their causes and interrelations. Historical facts are thus the raw material of political science. PS is the fruit of history and history is the root of PS....History also furnishes the material for comparison and induction....Nevertheless, much history is not of interest to the political scientist: art, military, science, dress, language....Yet it is impossible to consider a topic of political science without giving some attention to the historic background and the historic antecedents.

ECONOMICS:

Was first conceived as a branch of politics and hence "political economy"....Interrelated because the production and distribution of wealth are largely influenced by gov't and because the solution of many economic conditions must come thru political channels....There can be no making a living save under the protection of gov't and there can be no gov't unless men can make a living.....Taxation, tariff laws, gov't ownership of public utilities, State aid to agriculture and industry, capital-labor disputes, reduction of income inequalities, are problems of both. Witness, FDIC, Fed. Res., NLRB, Wage and Hour, FTC?, Sherman and Clayton Acts, OPA, TVA.....Income and expenditure of gov't are the pocket nerves of poli sci. and yet the budget is also economics.....Important influence of economics on politics (Marx) seen in rise of socialism coming out of economic injustices,

rise of feudalism out of land ownership, rise of democracy out of industrial revolution.

STATISTICS:

Furnish quantitative measurements of social phenomena and of gov't activities. Help in cause and effect study. can help legislators and administrators (standard of living). It is the practice of all modern governments to collect and preserve in systematic form statistics relating to political, social, and economic conditions.

PSYCHOLOGY:

Much literature attempts to explain and interpret political and social phenomena through the laws of psychology.....The course of state life is determined in large measure by psychic factors. Governments to be stable must be in harmony with the mental and moral ideas of those subject to its authority..... Custom, tradition, imitation, very impt in political notions.... Psychs of public opinion.

LAW:

Essential part of govt is legal control of human relations. Thus protection, justice and regulation of human interests, functions of govt, come primarily through law.

PHILOSOPHY AND ETHICS:

Ethics is a branch of study which investigates the laws of morality and formulates rules of conduct. It deals with the rightness and wrongness of man's conduct and his ideals. "Right from wrong....Hence a part of political theory and philosophy in dealing with the "ought" rather than the "is"...It is clear that laws and commands are obeyed with a greater readiness if they are in keeping with the moral ideas of the community...Particularly true as we leave theory of unbridled state which can do no wrong

METHODS OF STUDY

Historical:

A guide to the interpretation of what is today from what was yesterday. Contributes to our knowledge of the origin of political groupings: the geographic, economic and psychic forces impelling shaping of political institutions.

Comparative:

Designed to study foreign practices with a view toward reconstructing and improving existing political institutions....

This counteracts superiority traits....we visit Europe for local reforms (Steffens); France uses US experience.

Analytical:

Follows method of biologist in dissecting, analyzing, scrutinizing govt, observing one part in relation to another; learning composition and makeup of each portion.....Thus, we might divide govt into legislative, executive and judicial and investigate; or take Constitution and analyze relationships of federal to state to local; or take one board, Police Dept, and study completely its organization, methods, purpose, effectiveness.

Philosophic or Ideal: (Theory)

Man cannot escape from end seeking. From first historical evidence, he has searched for ideals, dreams, visions. Plato's "REPUBLIC" seeks for an ideal state where man can attain his highest material, intellectual and moral development..... Thus this theory stress seeks to clarify the object w high rulers and people set before them as goals. Theories of men and rulers determine their actions. (Divine right monarchs conceiving that their mandate came from God developed a philosophy to support the concentration of all public interests and power in their hands) (democracy and popular sovereignty that govt is agent of people to carry out their wishes) (Jefferson and Tolstoi: that govt is

- Hamilton

best which governs least; or public service collectivism under which all public services of man are cared for, protected and performed by a single all embracing organization of society)

Each of the methods have validity, but none need or successfully can be pursued singly with much profit. They must be combined.. The art of govt is often seeking interrelationships.

We shall see that part of the function of political science methodology is to attempt to look into the future. Political institutions and practices are not so much fixed things as they are in the process of becoming different.

Hence an analysis of the past, of the present, of the similar and the different, of the ideals of political philosophers and the vision of reformers all must be considered.....

Thus the past may well be called upon to give the setting for the present; and the present will be interpreted in the light of the conditions and processes out of which a new order is arising.

What is a science?? Pugilism? Cookery? Apple Pie?

For our purposes, a science may be described as a fairly unified mass of knowledge relating to a particular subject, acquired by systematic observation experience or study, the facts of which have been coordinated systematized and classified. Out of them, generalizations are made for predictions of future behavior, and these can be stated in general laws which are themselves capable of empirical observation.

(Law: Gases will expand directly in proportion to heat and inversely in proportion to pressure.)

How close can Political Science come.

Difficulties. P.S. does not have the axiomatic quality of math. In its equations, the variables are human beings whose uniqueness prevents their reduction to a mere scientific term..... Hence, it is argued that though Political Science deals with tendencies and predicts upon the basis of experience, our predictions are limited by the necessity of recognizing that not all the facts are within our control as scientists...It is true that we can influence and attempt and hope, but the certainty and precision of the chemist and even of the physiologist can never be achieved.

We are dealing with man and human nature. And they do not seem to be constant. Mankind is a product of evolution from non-human forms and men are still in evolutionary process. Human history records an infinite variety of cultures and social habits.

Nevertheless, evolution is not peculiar to the human race. We can still generalize on what is; for evolution is the process of all of the physical universe....And even though it is not an exact science in the sense that chemistry and physics are for there is less precision in its laws and conclusions, nevertheless a science like meteorology is also inexact.

Political science is a science in the sense that laws

can be detected in the political field....As a result of experience derived from trial and error, it can be observed that men will tend (out of a regard for their interests as they see them.) to pursue a given course in given cases.....Power corrupts.....The degree of freedom in a community is inversely in proportion to the amount of external pressure on that community.

Now occasionally exceptions occur, as when man acts with an altruism arising out of deep-seeded emotions and instincts. But first of all, most of life's business is not immediately related to these emotions and so the law is stated in its pure form without the extenuating circumstances; and if an emotion should be constant in a set of action, then a generalization and law would have to be arrived at covering that new circumstance.

So that it is a science in the sense that there is a constancy and uniformity in the tendencies of human nature which enable us to regard the acts of men at one time as due to the same causes which have governed their acts at previous times. Acts can be grouped and connected, arranged and studied as being the results of the same generally operative tendencies. (not that human nature cannot change!)

For that reason, the scientific method of analyzing facts, examining them, generalizing, formulating hypotheses is valid.....

Necessary for discipline

VALUES AND POLITICS

We've been arguing that the field of politics is a specialized one; that society ought to demand of it that it create an expertise, experts and body of knowledge to which it can and ought go for the answer to some of its problems. We indicated that such an expert body of knowledge was possible, even tho not immediately available, and maybe it is necessary for society to put some of its money in foundations for study of political problems and not all in scientific.. Stated two statements that might be arrived at as "laws" or axioms postulates of P!S.: "Power corrupts" and "Freedom in community inversely proportionate to external pressure".....(Questions)

~~Can we experiment?~~
What is scientific method: observation and investigation; experimentation; impartiality; generalization..

ASK X
Can we experiment? If the chemist wishes to study the effect of a combination of certain substances, he can create by artificial processes conditions favorable to the investigation and exclude disturbing agencies. But if the political scientist wishes to experiment with democracy, for instance, he cannot select a state at will, introduce his democracy and wait for determinate results. He would be powerless to exclude extraneous influences like famines, commercial crises or other events which might destroy the results of the experiment.

Yet that is not completely accurate. The scientist can measure temperature, humidity and the force of wind and the social scientist can measure the heat of mob passion, poll sentiment, with psychometrics measure attitudes.

Furthermore, practical experiments are being carried out every day, consciously or unconsciously. Whenever a community

changes officeholders, it is experimenting; any governmental change is experiental. The whole life of the body politic is a succession of activities which, in a sense, are experimental in character....Every new law, new institution, new policy is experimental in the sense that it is regarded merely as provisional or tentative until results have proved its fitness to become permanent (Prohibition)

Take TVA..Australia, TVA; Palestine TVA; Danube TVA.....

ASK X FOR OTHERS In the American community, one state learns from another. Local govt and city-manager...labor legislation

ASK One other difficulty: impartiality, bias and here we come to values.

The chemist has neither love nor hate for a hydrocarbon, but the historical investigator may be influenced by his religious beliefs, political partisanship, racial prejudices or philosophical doctrines.

The first warning to society, therefore, is that it had better watch out: ask the questions and ask for facts; and know the bias.

Now, I have a point of view; as member of community, I have values. You know them, allow for them as opinions and differentiate between opinions and facts (responsibility to be lived up to or I'm not asked any more). Only natural that I have values; after studying, I develop democratic attachments and anti-Totalitarian whether German or Russian.

We don't escape values. The scientists who now crusade against atom war have values, the physician who works to eliminate cancer or TB or Polio. - They choose their fields: cancer prevention knows their values

But that doesn't mean their facts are inaccurate; nor does it mean that there should be no objectivity in fact-finding.

In order to serve his profession and society best, the political scientist looks at uniformities of human action and says they are capable of study, without consideration of motives or ethics.....The positive science of politics must not be contingent on the achievement of a sound philosophy of ethics.

Thus the science of politics is not concerned with whether rebellions ought to exist, but with the circumstances under which rebellions do exist and how they can be met.....It does not specialize in details of the building of a City of God, but how any society at all which is stable can in fact be constructed.It is concerned more with the "how" than the "why".

Nor does this minimize importance of the Good Society. The ends are to be decided by society, choosing from a multiplicity of ideals.

Nor should the ethical philosopher scoff at this as he says he is needed after all. For if he is to put his ethics into practice he must know the methods, the techniques....The political scientist says: granted an ideal, purpose, object or interest (true or mistaken, right or wrong) how can he give effect to his plan.

The philosopher may believe "Great is truth and it will prevail" as a powerful battle cry, but God Damn it, the forces of evil and stupidity occasionally triumph too and that triumph is often due to bad strategy of the lovers of good and reasonable.

study
Politics then is science of social method plus those conditions which determine it and depend upon facts of social life itself and human needs which compel men to act.

THE STATE

The textbooks state essentials of a State as: a definite territory, a population and a government plus something called sovereignty.

It is obvious that a state must have some territory. It is obvious too that no limit or uniformity can be prescribed in respect to the size of states. It is estimated that there are 76 organized states at present time in world. Yet, the definition is essential because it distinguishes the nomadic tribe from a state..

Similarly with ~~size~~ population as an obvious essential, with no minimum or optimum. In modern states, the variation ranges from about 5,000 people in the State of Andorra in the Pyrenees to more than 422 million in China.

A state must also have a govt, defined as the agency or machinery through which the will of the state is formulated, expressed and realized. Properly speaking, the term includes the sum total of the legislative, executive and judicial bodies in the State, of all those engaged in making, administering and interpreting law.

The 4th attribute is Sovereignty which means supremacy and may be defined as the power of the State to make laws and enforce them with all the means of coercion it cares to employ. It has two aspects, internal and external. Internally, it means the power which the State claims to make and enforce law upon individuals and associations within the area of its jurisdiction. Externally, it means independence of foreign control.

A State thus (Laski): "a territorial society divided into Government and subjects claiming, within its allowed physical area, a supremacy over all other institutions".

How does a State differ from a government?

They represent widely different concepts. The state is the politically organized entity for the promotion of common ends and the satisfaction of common needs, while the government is the collective name for the agency through which the will of the state is formulated, expressed and realized.. The gov't is an essential organ or agency of the state, but it is no more the state itself than the board of directors of a corporation is the corporation....The State includes both the Government and those governed.....Thus changes in governmental organization do not affect the existence of the state. Governments constantly undergo change as a result of revolution, or through legal processes, yet the state continues. (Germany; Russia)

The State must also be distinguished from Society.

Latter is association of human beings; State one of the groups.

✓ Society does not require political organization or any organization.

.....Distinction is imp't for understanding that the individual in society will obey rules even if they are not backed by the coercive power of State (Poker: agreed rules; if one says 'Q' high, then failure; yet no State) In fact, some will obey other than State (coal miners, COs, OPA employers).....Distinction imp't

✓ for area of society is voluntary cooperation, while area of state is mechanical and on force. This distinction helps individual freedom, for to equate them justifies State interference in all aspects of the life of the individual. This leads to over-government and the consequent tyranny of State control. Germany..Russia (Shostakovich 9th denounced as bourgeois, not for needs of state)

State is social manager

The distinction between a nation and a state must also be made. Here there is confusion in terminology. The terms are often used synonymously. Thus one speaks of the American and British "nations" when states is meant...The UN.... Yet with an accurate definition of "nation" we find it is not necessarily a people organized as a state nor is a state necessarily a nation. Thus Scotland may be a nation, but not a State. A nation, representing a nationality is supposed to stand for an ethnic group, yet the boundaries of a state may extend way beyond those of the nationality.

Nationality has been defined as necessary to include: purity of race; community of language; geographic unity; community of religion; common political aspirations....Yet it is quite clear today that no one of them is essential...Nationality is essentially a matter of sentiment. If a people have acquired the character of a nationality, it is because they believe they have a consciousness of being bound together by strong ties and affinities which distinguish them from their neighbors.....It thus differs from statehood in being subjective rather than objective; psychological rather than political; a condition of mind rather than a condition of law; a spiritual possession rather than an enforceable obligation;

STATE ESSENCE

Textbooks SAY that state must have population, territory, government, sovereignty (define). *why?*

But what is it? Is it for general will? for class dominance? for general coercion of all?

It is an association, politically organized.

But what can it do? (U.S.-Gobitis, Esquire; Russia-music)

This confusion is due to fact that we've been too much interested in definition and description rather than essence. An abstraction, serving a mental tool to save time, but no precision.

"State" as word first used by Machiavelli in 1513. His "Prince" considered it to be all embracing, coercive. In 1576, Bodin developed concept of sovereignty.

Sovereignty was a quality, not a being. The quality of supreme authority in a community. The State was the association through which that sovereignty was expressed.

But the lawyers and analytical jurists came on the scene to confuse us. They looked at their surroundings and saw a supreme state. Austin saw Parliament; others saw monarchy; others saw German Imperial System of 1871. They were interested in facts, concrete institutions, asked why Parliament or King had such power and said because of sovereignty.

Now came reformers, who didn't like monarchy, or imperial system and began to quarrel with sovereignty rather than with the institution they disapproved of. (We may approve of their moral aims, but they should have criticized prevailing forms rather than criticize concept of sovereignty, quality)

Sovereignty is thus a quality not a being which in our society exists in the State.

What is State? It is not a transcendental abstraction, of the nature of God, whose existence you can't prove or describe to satisfaction of all and whom you only know about from the results. It is a reality - an association.

It's function is to be a social manager. Society consists of a multitude of social forces which pull in every direction.

(labor; management - expedite profit motive; human welfare)

The balancer of the forces, giving it direction, energy is the state. It consists, therefore, of all the forces within it; of all the component parts and political institutions.

.....It is, therefore, not a kind of God outside the machinery, up above, giving direction. It is rather the sum total of all the machinery, the impulse and energy in them.

This is impt because it means we can then understand it and not write off what happens in society as the fault of vague, abstract and mysterious forces called the State.

It is not an entity outside political institutions, it actuates and constitutes those institutions.

Hence, since it is the social manager it can take diverse forms.....The conflict of wills within can take the form of one force winning out and ruling; it can mean harmony of all.

It can mean rule by minority, any minority, or rule by all.

More important than what is the State, therefore, is question related to how does this social manager make decisions? In other words, who has got the fingers in the pie; because he has power in the community.

So POWER. Who has power? How did he get it?

The political struggle, therefore, is for possession of state power. The struggle for the power to impose an idea or person on other people

The community consists of many people, each of whose minds is pregnant with a concept of what is desirable and should be: personal power, money, race, war, peace, general will...What they have in common is desire to secure supremacy.

The State then is made up and maintained by a balance of forces.

"THE STATE IS A TERRITORIAL ASSOCIATION IN WHICH SOCIAL AND INDIVIDUAL FORCES OF EVERY KIND STRUGGLE TO CONTROL ITS GOVERNMENT VESTED WITH SUPREME LEGITIMATE POWER.

(Thusexplain governments: who is in power)

STATE EXAMPLES

State is somewhat like a machine which simply converts energy. Its ultimate force is composed of the psychological and physical qualities of the people and their resources. Thus it converts some people's work and earnings, through taxation, into the education of other people's children.....

Since no work is gained by using the machine, that is, the product never contains more of the original material than was put in, though it may be in a more desirable form.

Bearing in mind that the State is an instrument of conversion, let us separate the factors in the process.

a) There is the initial energy: the belief that certain courses of action or inaction are desirable or undesirable (desire for religious conformity; put down Trusts, prohibit alcohol)

b) Material Resources: Human energy itself is insufficient often. (conformity requires prisons; education requires books; govt needs buildings.)

c) Administrative Machinery: To apply the initial resources and energy to their ends. This organization and men formulate in detail the vague general wishes that are to be put in practice and convert them into regulations.

The above 3 factors are in every form of State activity. Where these factors cannot be produced, State activity fails.

HISTORY OF STATE

Not until 16th century did the word "State" become at all widely known and current. It was when Machiavelli's PRINCE came out in 1513. Until then, human cooperation in what we now call the State-form was named either by terms borrowed from antiquity or other terms which attempted to crystallize and express the outstanding quality of the association.

To the Greeks, the term "State" was unknown. They used "Polis" and we translate that as City or City-State. But the Polis was at first merely a fortified place, a stronghold, a place of refuge.

Early Rome was called "Civitas", meaning the community of those with full citizen rights and duties. Also called "Res Publica", common possession of all who belonged to the community of citizens. The Roman citizen-communities were close corporations, living on the exploitation of slaves, the profits from which contributed largely to the glory of that civilization. Term "Imperium" succeeded, implying qualities possessed by rulers. (None of these terms are identified with "State")

The dynamic impulses, the reaching out of political life in Northwest Europe produced the German term, "Reich", drawn from "Regnum" and English term "reign". These terms meant authority and given the historical development of actual authorities, the violent conquest of power, authority was naturally ascribed to Princes.

In the Middle Ages, the term used was "Land", characteristic of the vital part in man's life. This changed to "Estate" giving a sense of possession in personal property and follows naturally upon a feudal society.....Finally the "State" was applied in Italy where the variety of political forms was so wide that the existing terms did not fit (Stato di Venezia), coming from "status" of Latin meaning order or constitution (Machiavelli in 1513 and Bodin 1576 term now meant supreme authority, associated with monarchy).

ORIGIN OF STATE

Among the first questions raised by political theory is what is the origin of the State? Havemen always lived under some form of political organization? If not, what are the causes which brought about the original establushment of govt..... Political thinkers are not agreed on the answer with result that there are various theories concerning the beginning of the State Social Contract:

The State is the result of an agreement entered into by men who originally had no gove nmental organization. Before the institution of the State, there being no government, there was no law which could be enforced by a coercive authority. Men lived, it was said, in a state of nature in which they were subject only to such regulations as nature wassupposed to prescribe. But there was no human authority to formulate these rules preceisely or to enforce them. After some time, they decided to set up a govt. Thereby they parted with their natural liberty and agreed to obey the laws prescribed by govt.

How men lived in the state of nature without govt, why they decided to establish govt, who were the parties to the contract and what the terms of that contract were, on these and other details there are differences of opinion among the theorists. But they agree that the State is a human creation, the result of contract.

The theory took its first form in Middle Ages to resist the claim of rulers to an absolute dominion over their subjects. Thus a king could be deposed when he violated the agreement under which he ruled, namely that he was to promote a happy and virtous life. (James II deposed in 1688 "having endeavored to subvert the sunstitution by breaking the original contract between king and people".

Its second and more usual form postulated an original state of nature in which men were subject only to the law of nature, but in the course of time men realized that to remove the grievances which inevitably arose when men associated together, there was no way but to agree among themselves to form a govt. (Pilgrim fathers on board the MAYFLOWER: "We do solemnly and mutually in the Presence of God and of one another covenant and combine ourselves together into a civil body politic".

This concept refined and developed by Hobbes, Locke and Rousseau. Rousseau, the later, particularly significant. His work inspired the French Revolution of 1789 against despotic French monarchy and also supplied the basis of popular sovereignty theory.

Man, according to Rousseau, is essentially good and sympathetic. The state of nature is a period of idyllic happiness, men being free and equal. Soon, however, with the introduction of private property and growth in numbers, quarrels arise and man is compelled to give up his natural freedom. He makes a contract with himself and forms civil society.

In this contract, every one surrenders to the community all his rights. The community, not govt, becomes sovereign. Since it was formed of the individuals who constitute it, it can have no interest to contrary to their's. The will of the individual may though conflict with the general will of the community and when that takes place the compact tacitly agrees that anyone refusing to conform to the general will shall be forced to do so by the whole body politic.....This does not restrict his freedom, since the universal conformity to the general will guarantees each individual freedom from dependence on any other person....."Since each gives himself

up to all, he gives himself up to no one; and as there is acquired over every associate the same right that is given up by himself, there is gained the equivalent of what is lost, with greater power to preserve what is left".

Contract Criticism:

1) Facts differ. Idea of a contract postulates individuals free to do things in their own way. Actually primitive man was not free. He was born into the station that was his for life: slave, artisan, priest.

2) Even granting validity, does contract bind descendants?

Its merits, however, are that it serves to remind govt of "ought" that society rests on consent of ruled.

EVOLUTIONARY THEORY:

State neither a divine institution or a deliberate human contrivance; it sees the state coming into existence as a result of natural evolution.....Beginning difficult to trace, but a result of various factors: kinship, religion, war and political consciousness.

Early govt must have begun in clearly defined family discipline, with father as ruler.....Common worship must have been a factor in welding together of family and tribes.....War and migration were impt influences in origin of state. The demands of constant warfare often led to rise of permanent headship. When a tribe was threatened by danger or involved in war, it was driven by necessity to appoint a leader..Further, war and conquest helped to give the mark of territoriality to the State. This broke away from blood as an essential bond of unity in favor of territory under a ruler.....Finally, political consciousness. Aristotle claimed man by nature to be a political animal. The need for order and security is an ever-present factor; man believes he can develop the best of which he is capable by a form of political institution.

RIGHTS

ask — What is a right?

It can't help us to talk of "natural" rights, because that doesn't talk of reality. Free speech here and not in Spain. (Esquire or Gobitis????) Where from?

It is a claim! It is a claim which becomes legitimized, when it comes to be accepted in the State, either by persuasion or forcibly.....I can yell "I got my rights", but it is immaterial. My yell will be heard only when I have a measure of control over the law making and administrative institutionsNeither does it matter how moral, ethical, or negligent my claim may be.

Where does it come from?

State cannot produce energy out of thin air. It only as a manager transforms energy from one form to another. But the energy must come from somewhere within. The raw materials must be obtained by the State from the inhabitants.

ASK The raw material which goes into rights after going through the machine is called "duties". For every right, therefore, there must be a corresponding duty.....These duties are indispensable and the State must systematize and distribute the duties within. (No minimum wage guarantee without duty on employers; no universal education without compulsory attendance or revenue raising; free speech and duty to provide place; right to freedom to walk and duty not to trip.)

As a social manager, the State can only tap energy one place and liberate it another.

It is incorrect, therefore, to think of the State as an abstraction that defies exact description with magical powers capable of producing an inexhaustible source of rights.

It is not from the State that we are really demanding rights. We are really appealing to the forces in the background who are no more magical than our neighbors and ourselves.

Rights thus mean little without duties. Constitutions and declarations of good will are meaningless if we don't give them the energy. The State cannot give more than it takes. *SOVIET CONSTITUTION*

*State a territorial association with a govt having
vested legitimate power and in which social
and individual forces of every kind struggle
to control that govt*

ALLEGIANCE

This explains allegiance. "e each have our own reasons de pending on our interests.

We want Order, Freedom, Social Justice of our own variety....It's because we need the State that we are loyal to it.

"e are all prepared to accept the State. We all insist on our own terms, t ough.. (Communists and Fascists demand free speech here and approve the lack of it abraod..... Unit Rule in DFL)...Some of us think that ~~the~~ without the institution terrible things would happen; some want the state because they want their family ~~sa~~iteered. ; economic insecurity will be al eviated.; fear rule by other people with other languages and customs.

§ § §

It can be said, therefore, that the State is created only in proportion as it is desired and so when a sate is not believed useful it is not created...Generally human beings try to avoid any expenditure of energy which is not likely to return a surplus of satisfaction....Done by not providing the energy vis a vis duties. If individuals or groups wish to find their satisfaction without creating political institutions they do so (economic assn, church, family, ~~xxx~~, art)

There is therefore a limit to this thing called govt or state. The limit is the actual refusal of inhabitants)

SYLLABUS FOR FUNDAMENTALS OF GOVERNMENT AND POLITICS

^{THE} Such phenomena of war, the rise of totalitarian dictatorship, and the expansion of governmental functions are bringing more and more people to a realization of the significance of politics in everyday life. This course is designed, therefore, to acquaint students with the principal terms, institutions, ideas and problems of modern politics in order that they may better understand the world in which they live. It does not pretend to be exhaustive. ~~It is frankly a mere introduction.~~ Students who wish to probe more thoroughly into the subject matter of political science are urged to go on with other and more specialized courses in American government, political theory, international relations, world politics, European and Far Eastern governments, constitutional law, public administration, and so on.

The accompanying syllabus indicates in broad outline the topics and questions to be considered in the course of our study. Each topic is followed by a specific assignment, which the student is required to prepare. There is included, following each assignment, a list of suggested readings in various books. While the student is not compelled to read any of these, it is strongly urged that he do so, since they constitute some of the important literature in the study of politics, and since they offer in addition, opportunities to become acquainted with additional data and with various points of view.

There will be two examinations in this course: a midquarter and a final. Final grades will be based entirely on the quality of these examinations.

I. What is political science and why should we study it?

1. Subject matter of political science
2. Methods of political science
3. Relation of political science to other social sciences and to philosophy.
4. Is political science a science?
5. Political science and values.

Assignment: Haines, C.G. and B.M., Principles and Problems of Government, (1926 ed.), Part I, Ch. 3.

Suggested readings:

- Garner, J.W., Political Science and Government (1928), pp. 1-45.
- Ogburn and Goldenweiser, The Social Sciences (1927), pp. 58-69, 143-147, 189-209, 242-299, 329-346.
- Wilson, F.G., The Elements of Politics (1936), pp. 1-49.
- Encyclopedia of the Social Sciences, article on "Political Science".
- Willoughby, W.W., The Fundamental Concepts of Public Law (1924) Ch. 1.
- Leacock, S., Elements of Political Science (1921), pp. 3-12.
- Sidgwick, H., Elements of Politics, (1897), ch. 1.
- Catlin, G.E.G., Study of the Principles of Politics (1930), chs. 1-3.
- Laski, H.J., The Danger of Being a Gentleman, (1940), ch. 2, "On the Study of Politics".

II. What is the modern nation-state and how did it come to be?

1. The modern nation state:
(Sovereignty; law; state and society; state and government; state and nation).
2. Theories of political origin.
3. Primitive forms of organized authority.
4. The Greek and Roman City-States.
5. Feudalism in the Middle Ages
6. Emergence of the national-state.

Assignment: Willoughby, W. F. Government of Modern States (1936), pp. 3-28.
Hedget, G.A., Introduction to Western Civilization (revised, 1939)
pp. 681-688; (in 1933 ed., pp. 488-510).

Suggested readings:

Haines and Haines, Principles and Problems of Government (1934 ed.),
pp. 1-27.
Sedgwick, H., Development of European Polity (1920), pp. 29-42,
57-99, 100-119, 141-167, 184-231, 316-344.
Garner, J.W., op. cit., pp. 156-202.
MacIver, R.M., The Modern State, pp. 250-281.
MacLeod, W.C., Origin and History of Politics (1931), pp. 75-139,
160-177.
Laski, H.J., Grammar of Politics (1925), ch. 2.
Dewey, John, The Public and its Problems (1927), Chs. I-II.
Holcombe, A.N., Foundations of the Modern Commonwealth (1923), ch. 2.

III. What are the types and classifications of government?

1. Democratic vs. oligarchical (dictatorship)
2. Monarchical vs. republican
3. Constitutional vs. Authoritarian
4. Unitary vs. parliamentary
5. Unified vs. federal.

(CHANDLER - pp 1-6; 15-58; 73-130; 138-157)

Assignment: ~~WILLIUGHBY~~ ^{BECKER HUTCHINS} Willoughby, W.F., Government of Modern States, pp. 57-116.

Suggested Readings:

Neumann, Sigmund, Permanent Revolution (1942), Ch. 1, Modern dictatorship defined.
Cole, G.D.H. and M., A Guide to Modern Politics (1934) Book III,
Ch. 2 on "Dictatorship".
Willoughby, W.W., Nature of the State (1896), ch. 13, "Governments: their classification".
Garner, J.W., op. cit., Chs. 13 and 14 on "Forms and Types of Government", Chs. 15 and 16 on "Elements of Strength and Weakness in Different Forms and Types of Government".
Bryce, James, Modern Democracies (1921), Vol. I, Books III, IV, and V,
Finer, H., Theory and Practice of Modern Government (one vol. edition)
Part II, Ch. I, "Forms of Government, Especially Democracy".
Barnes, J.S., The Universal Aspects of Fascism (1929), Ch. 4, "Fascism and Democracy".
Maxey, C.C., American Problem of Government (1943), Chs. 3 and 4.
Seeley, J.R., Introduction to Political Science (1896), pp. 148-197.

IV. What theories have been advanced concerning the functions and ends of government:

1. Anarchism
2. Individualism and laissez-faire
3. Collectivism
4. Syndicalism
5. Socialism
6. Communism
7. Fascism.

CHANDLER, CLASH OF POLITICAL IDEALS - pp. 7-14; 158-138

Assignment: Willoughby, W. W. (text) pp. 46-56.

Willoughby, W.W., The Ethical Basis of Political Authority
(1930) Ch. 3 (Anarchy); Ch. 4 (Socialism and Communism),
Ch. 8, (Fascism).

(IV) (Cont.)

Suggested readings:

- MacIver, op. cit., 456-467, "Individualism and Collectivism"
Barker, E., Political Thought from Spencer to the Present Day (1915),
Chs., 4, 5.
Dimock, M. E., Modern Politics and Public Administration (1937), Ch.2,
"Functions of Government".
Leacock, S., Elements of Political Science (1921), Part III, Chs. 1 and
"Individualism", "Socialism".
Laski, H.J., Reflections on the Revolution of Our Time, (1943), Ch. 3,
"The Meaning of Fascism".
Garner, J.W., op. cit., Ch. 17.
Spahr, M., Readings in Recent Political Philosophy (1935).
Selection by Kropotkin, W.A., pp. 369-387 (Anarchism)
Selection by Sorel, G., pp. 389-409 (Syndicalism)
Selection by Rocco, A., pp. 681-9 (Fascism)
Selection by Gentile, G., pp. 670-680 (Fascism).
Coker, F.W., Recent Political Thought (1934) Chs. 6,7,8,17.
Marx, Karl and Engels, Frederick, The Communist Manifesto (1848)
Lenin, V.I., State and Revolution (1917) esp. Chs. 1 and 5.
Merriam, C.E., American Political Ideas, (1929), ch. 11.
Barnes, J.S., The Universal Aspects of Fascism (1929), ch. 3,
"The Main Principles of Fascism".
Wasserman, L., Handbook of Political "Isms", (1941) chs. 6,
"Socialism"; ch. 7 (Soviet Communism); 8 (Anarchism);
9 (Syndicalism); 13 and 14 (Fascism and Nazism).

V. How is government related to or affected by the economic system?

1. Dictatorship and "capitalism"
2. Dictatorship and "socialism"
3. Democracy and "capitalism"
4. Democracy and "socialism"

CHANDLER - pp. 131-137; 239-269.
CORRY - Ch. 3

Assignment:

Haimann, Edward, Communism, Fascism or Democracy (1938) pp. 17-37,
82-100, 177-188.

Suggested Readings:

- Schumpeter, Joseph A., Capitalism, Socialism and Democracy, Part IV,
chs. 20-23.
Barker, E., Reflections on Government, (1943), Ch. 6.
Ford, G.S., Dictatorship in the Modern World, (1939), pp. 215-230,
"The Economics of Fascism".
Hook, Sidney, Towards the Understanding of Karl Marx (1933), ch. 19,
MacIver, R.M., The Modern State, 291-316.
Dimock, M.E., Modern Politics and Administration, Chs. 3 and 14.
Laski, H.J., Democracy in Crisis (1933), Ch. 3.
Laski, H.J., State in Theory and Practice, (1935), pp. 87-192,

VI. What is the significance of constitutionalism in modern government?

1. The nature and purpose of constitutions.
2. Development of "constitutionalism"
3. Types of constitutions
4. Methods of establishing constitutions
5. The constituent power
6. Constitutional law
7. Constitutions under dictatorship.

Assignment: Willoughby, W.F., Governments of Modern States, pp. 117-159.

CHANDLER - pp. 59-72

Suggested Readings:

- McBain, H. L., The Living Constitution (1927), Ch. 1.
Anderson, William, American Government (1942), Ch. 6.
Haines and Haines, op. cit., (1926), Part III, Ch. 1 and 2, in 1934 ed., Ch. 13.
Finer, H., op. cit., Part II, Ch. 3.
Willoughby and Rogers, Introduction to the Problem of Government (1921), pp. 55-106.
Garner, J.F., op. cit., Ch. 18.
Friedrich, C. J., Constitutional Government and Democracy (1941), Chs. 7, 8, 9, 13.

VII. What is the significance of centralization and decentralization in modern government?

1. Unitary systems
2. Types of union (personal; real; confederations; federal)
3. Special problems of unitary systems
4. Special problems of federal systems
5. Unitary and federal systems compared
6. Local subdivisions of government

CORRY - CH. 14, 15

Assignment: Willoughby, W. F., Governments of Modern States, pp. 163-215.

Suggested readings:

- Sidgwick, H., Elements of Politics, Ch. 26.
Sharma, B.M., Federal Polity, pp. 1-28, 100-127.
McBain, H. L., The Living Constitution, Ch. 2.
Thompson, Walter, Federal Centralization (1923), pp. 3-19.
Dicey, A. V., Law of the Constitution (1914), pp. 143-180.
Clark, J. P., Rise of a New Federalism, Ch. 1.
Benson, G.C.S., The New Centralization, Chs. 2-4.
Mogi, S., Problem of Federalism (1931) Chs. 3 and 4.
Willoughby, W. W., Fundamental Concepts of Public Law, Ch. 13.
Jacobson, J. M., Development of American Political Thought (1932), Ch. 6.
Christensen, A.N. and Kirkpatrick, E.M., People, Politics, and the Politician (1942), pp. 110-117.
Garner, J. W., op. cit., Ch. 12.
Friedrich, C.J., Constitutional Government and Democracy, Ch. 11.
Bryce, James, The American Commonwealth (2 vols.) 1908, Vol. I, Chs. 27-30;

VIII. How are powers distributed functionally in present-day governments?

1. Separation of powers in "Popular" governments
2. Union of powers in dictatorships
3. Presidential and cabinet systems compared
4. Functional distribution in federal systems.

CORRY - CH. 2

Assignment: Willoughby, W.F., Government of Modern States, pp. 216-268.

Suggested Readings:

- Finer, H., Theory and Practice of Modern Government, Part II, Ch. 2.
Willoughby and Rogers, op. cit., Chs. 17 and 18.
McBain, H. L., op. cit., Chs. 4 and 5.
MacIver, R.M., op. cit., Ch. 12.
Anderson, William, American Government, Ch. 9.
Haines and Haines, op. cit., 1926 ed., Part III, Ch. 4, Ch. 9.
Laski, H. J., Grammar of Politics, 295-311.
Friedrich, C.J., op. cit., Ch. X.

IX. The Branches of Government: How are they organized? What are their functions? What are their procedures?

1. Legislative branch
2. Judicial branch
3. Executive branch (Functions: President and Prime Minister).
4. Administrative "Branch" (Responsibility; Personnel; Organization; Fiscal).
5. How are the branches of government affected by dictatorships?

CORRY - CHS. 4, 5, 9, 11, 12, 13

Assignment: Willoughby, Government of Modern States, pp. 312-475.

Suggested Readings:

- Sidgwick, H., Elements of Politics, Chs. 20-22.
Garner, J.W., op. cit., Chs. 20-24.
Burgess, J. W., Political Science and Constitutional Law (1890),
Vol. II, pp. 106-130, 307-319; 356-366.
Laski, H. J., Grammar of Politics, Ch. 8.
Neumann, Sigmund, Permanent Revolution (1942), Ch. 2.
Maxey, C. C., American Problem of Government, Chs. 14-16.

X. The Electorate: What is its role in modern government?

1. Representative government
2. Suffrage - development and nature.
3. Direct participation (Initiative; referendum; town meeting).
4. Relation to constitutional amendment.
5. Territorial vs. functional representation
6. Proportional representation.
7. Principle of majority rule - examined.
8. The electorate under dictatorship.

CORRY - CH. 7

Assignment: Willoughby, W. F., Governments of Modern States, pp. 269-311.

Suggested Readings:

- Bryce, J., Modern Democracies, Vol. I, Ch. 8
Merriam, C.E., American Political Ideas (1920), Ch. 3.
Mill, John S., Considerations on Representative Government
Spahr, op. cit., pp. 229-240.
Smith, J. Allen, Growth and Decadence of the Constitution (1930).
Dimock, M. E., op. cit., Ch. 4.
Garner, J. W., op. cit., Ch. 19.
Willoughby and Rogers, op. cit., Chs. 9, 15.
Friedrich, C. J., op. cit., Ch. 15.

XI. What is the place of political parties and public opinion in modern government?

1. Rise and significance of parties in modern government
2. Party organization - United States and European compared
3. Two-party vs. multi-party systems.
4. Nature of public opinion
5. Public opinion and the pillars of society
6. Pressure groups and public opinion
7. Parties and public opinion under democracy and dictatorship.

CORRY: CHS. 6, 8, 10

Assignment: Willoughby, W. F., Government of Modern States, pp. 491-530.

Suggested Readings:

- Sait, E. M., American Parties and Elections, (1939), Chs. 5, 6, and 8.
Odegard, P., American Public Mind (1930), Chs. 3-7.
Lippmann, W., Public Opinion, Part I, II, III, V.

- Laski, H.J., Parliamentary Government of England, (1938) Ch. 2.
 Leacock, S., Elements of Political Science (1921), Ch. 8.
 Childs, H. L., Introduction to Public Opinion, (1940), pp. 35-49,
 103-128, 129-142.
 Finer, H., Op. cit., Part III, Ch. 3.
 Dicey, A.V., Law and Opinion in England, (1914), pp. 1-16, 399-414,
 432-46.
 Friedrich, C.J., op. cit., Chs. 16 and 17.
 Haines and Haines, Principles and Problems of Government (1934 ed.),
 Chs. 10, 12.
 Logan, E.B., The American Political Scene (1936), Chs. 1, 2 and 6.
 Doob, L.W., Propaganda (1915), Part V.
 Bryce, James, Modern Democracies (1920), Vol. I, Ch. 15.
 Rosen, S. McKee, Political Process (1935), Ch. 3.
 Neumann, Sigmund, Permanent Revolution (1942), Chs. 5, 7.

XII. What is the role of the citizen in the modern state?

1. Meaning of citizenship.
2. Conditions of citizenship.
3. Rights and duties.

Assignment: Willoughby, W.F., Government of Modern States, Ch. 4.
(HANDLER - pp 270-272.)

Suggested Readings:

- Gettell, R. G., Political Science (1933) Ch. 10.
 McBain, H. L., The Living Constitution, Ch. 3.
 Hobhouse, L. T., Elements of Social Justice, Ch. 2, "Rights and
 Duties"
 Catlin, G.E.C., Study of the Principles of Politics (1930), Part II,
 Ch. VIII.
 Anderson, William, American Government (1942), Chs. 16-18.
 Merriam, C.E., American Political Ideas (1920), Chs. 11, 12.
 Laski, H.J., Liberty in the Modern State (1930), Ch. 1.
 Laski, H.J., Dangers of Obedience (1930).
 Essay on "The Recovery of Citizenship".

XIII. What is the place of the state in the family of nations?

1. The interdependence of nation-states.
2. The nature of international relations
3. The nature of international law.
4. Techniques of International Cooperation
5. Proposals for postwar organization.

Assignment: Haines and Haines, Principles and Problems of Government
 (1934), pp. 557-634.

Suggested Readings:

- Vinacke, H.M. International Organization (1934), Chs. 1,2,3,
 Buell, R.L., International Relations (1929) Chs. 24,25,27,28.
 Gettell, R.G., Political Science (1933), Ch. 23,24.
 Willoughby, W.W., Fundamental Concepts of Public Law (1924) Chs.
 13,16,17.
 Zimmern, A.E., The League of Nations and the Rule of Law (1936),
 Part III, Ch. 1,2,3.
 Briery, J.L., Law of Nations (1936), Chs. 1,2.
 Mander, L.A., Foundations of Modern Society (1941), Preface.

LECTURE

Too Long Overlooked

★ ALL EYES NOW are centered on a certain date in the future. Everyone's worried about what will happen on the first Tuesday after the first Monday in November 1948.

Nearly every action by congress, the President and other politicians is affected by the '48 election.

But overlooked in the maneuvering are suggestions about 1948 which would have far reaching consequences.

Last month Sen. William Langer, (R., N.D.) wrote an article for the Christian Science Monitor magazine calling for abolition of the electoral college.

The senator points out that under the electoral college system it is possible for a presidential candidate to poll a clear-cut majority of the popular vote, win in more than two-thirds of the states and still be a defeated candidate.

Purposely ignoring normal sectional patterns, Sen. Langer uses 1948 as an example. Suppose, he says, labor, angered by the Taft-Hartley bill, gets solidly behind the Democratic candidate and concentrates its drive in 12 pivotal states—states such as Pennsylvania, Illinois, Cali-

fornia, Missouri, Kentucky, Indiana, New York, New Jersey, Ohio, Massachusetts, Texas and Wisconsin.

Then assume further that this drive is successful, and that the Democratic candidate is successful only in these states.

Even so, this would be enough to win the election. For these 12 states have 268 electoral votes. And if the Republicans took all the other 36 states their electoral vote would only total 263.

Langer also points out that such a situation is not entirely far-fetched. Twelve of our 32 presidents, he says, have been elected without a majority vote.

This, of course, includes the times when third party candidates split the field. But in two elections, it is recalled, the minority candidates, without benefit of a third candidate, won. The two were Harrison's win over Cleveland in 1888 and the topsy-turvy election of 1876 when Hayes nosed out Tilden.

Corrections to these electoral faults have been proposed for years. Right now Rep. Clarence F. Lea (D., Calif.) has a bill before congress calling for an amendment to the constitution that would make the electoral vote of each state correspond to the popular vote. In other words, a proportional electoral college.

His change would work something like this:

In 1944 President Roosevelt carried New York state with its 47 electoral votes by a 316,000 majority. Under proportional rules he wouldn't get all the 47 electoral votes. He would get 24.68 electoral votes and Gov. Dewey would get 22.32.

Carried over to every state in 1944 this proportional system would have changed the electoral vote from 432 Roosevelt, 99 Dewey to 305.3 Roosevelt, 225.7 Dewey.

Either change would be an improvement over the present system. Either change would tend to cut down the concentration of political power in a few states. And either change would give greater voice to the "minority" parties in certain sections of the country—be they Maine or Alabama.

Political Party Conventions

Is the national nominating convention actually a reliable democratic institution expressing the will of the people, or is it an archaic device, run mainly by office-holders and office-seekers?

By passing of Stassen and choice of Truman show that the convention can be manipulated to defy popular will.

M. Ostrogorski: "a colossal travesty of popular institutions".

Criticisms:

1) Delegates not representative. Solid south has full representation in Republican convention; Republican states like Nebraska and Iowa have strength in Democratic convention.

2) Most delegates have no guidance from people as to candidates the people want. Primaries held in only 16 states, and even there the choice is often vague, with delegates often not bound, with delegates often not indicating their preference, with open primaries often allowing one party to contribute to nomination of weakest candidate in other party... In other states, delegates dominated by politicians interested in patronage.

3) Patronage favors President. Conventions dominated by politicians who benefit from patronage.

4) Distribution of delegates favors candidate from large states. Since 1920, in every ~~state~~ election, one of the nominees was from New York. Dewey has real advantage over Stassen considering NY's 97 and Minnesota's 25.

5) Convention atmosphere not conducive to solemn deliberation for candidates or platform, with 2,000 delegates and 10,000 audience. Hamilton: the larger the audience the more power rests in hands of few; hence real deliberations in personal headquarters

Real question remains, therefore, whether national conventions are as responsive to will as they might be.

History:

In first 2 conventions of 1789 and 1792, Washington unanimous hence no nominations. In 1796, Federalists clearly for John Adams and Democrats for Jefferson, hence no nominations.

In 1800, to resolve Vice-Presidency in Jefferson party, a Congressional caucus chose Aaron Burr in secret.... This objected to as few men monopolizing right in people.

Hence by 1824, a full revolt, with many Congressmen boycotting caucus. Caucus nominee ran 3rd and system abandoned.

State legislatures began to nominate, gradually led to state delegates meeting nationally, with conventions beginning in 1840..... By 1844, Calhoun called it "pernicious" and refused to allow his name to be presented.

Suggestions:

1) Allow delegates fun but withdraw power, with conventions selecting several men, with uniform national primary choosing.

2) Only national direct primary (suggested by Wilson to Congress in 1913)

3) People by taking interest in political preliminaries create democracy.

"I DON'T CARE WHO DIES THE ELECTING, JUST SO I DO THE NOMINATING":

Boss Tweed.

Farewell Note

"The term democracy has acquired such a meaning that it has become entirely meaningless. We propose that it be given up entirely, especially in the United States, which is a republic."—Editorial in Colonel McCormick's Chicago Tribune, September 14, 1950.

Please mount and place on my desk for my reference

Proudhon (1809-1865) just to call himself anarchist. - From Golden Rule and natural law & justice, he denied the right of anyone to the full product of his own labor. Property which prevented this was theft; for property meant profits, interest and rent. Not opposed to all property, though. - Opposed to State & all organizations even trade unions. - Insisted, like Godwin, on peaceful change.

Godwin & Proudhon influenced many Americans, particularly on slavery question, saying that all gold is valueless. Men like Garrison & Thoreau with promise & action resolved to go to the struggle v. slavery. Many use "non-violence", refusing to take part in gold & refusing to use force with or v. gold.

Theory rejected: Men like Fourier in U.S. wanted to set up communities as voluntary association, peacefully regulated which would be exposed, but dropped from the right of association and voluntary joining. No citizenship by birth.

Most serious analysis of late 19th & 20 cent in revolution came from Russian Bakunin & Engels. - Opposed gradualism & non-violence. Favored completely against revolution for though anarchism is part of evolution process, a little revolutionary help is added. Involved in revolution will be parallel dissolution of churches, army, courts, police; also invalidation of all property.

In place of state, Bakunin wants free chaotic society. Because this society is contrasted and voluntary even rather than laws & compulsory allegiance.

Engelstein argues history proves the state to be unchangeable & negative. It has not protected labour & prevented from capitalist exploitation - It protects private property which produces, war, misery, unemployment, war, unhappiness. End society like Bakunin. - Also evolutionary process for cooperation & sympathy, good. Millions already trained across without good; agreements kept out of doors to retain mutual confidence; trade unions; good law; security & trade unions.

Denies that where there is no good there is disorder. Communism not really order anywhere

As to criticism that in the absence of polit. authority, men will goad to keep agreements or make or not. In anti-sound, he says: if agreement is forced, as when out of sheer necessity a workman tells his boss to an employer or strikers, the agreement is unjust & should not be observed; if agreement is voluntary, no force is necessary to secure observance.

Also, men prefer work to idleness. They are reluctant to work because of underpayment; work of bad character: bad conditions. - No problem once conditions are eliminated.

Even crisis & anti-sound human personality due to economic injustice - Early training, schools, equal effort will remedy.

Neither B nor F had use for nihilist terrorism and assassination "propaganda by deed". They
stressed intellect and not nerve - Anarchist revolution not a religion of terror; it has noble motives

Tolstoy represents perfect anarchism with Christian ethics without dogma - State & private
property incompatible with true Christianity. The State built by force is anti-Christ. Private property
gives a few luxuries at expense of labor, many human charities & human brotherhood violated
Love by principle of love & equality, must end by non-resistance (no taxes)
(inspired by Garrison; in turn inspired Gandhi)

Anarchists & Socialists

Same goal - classless, stateless society.

So have diff. prolet. : anarchists deny common means can lead to good ends

Anarchists reject individual freedom

FOR DEMOCRACY

SEE

"PROBLEMS OF DEMOCRACY"

NOTES

MARXISM -INTRODUCTION

Nobody today can exercise the rights of citizenship intelligently without clearly understanding the case for Socialism. On a simple level, i.e., there are Socialist Parties.

We see that England went Socialist. We are told that Russia is Socialist. Yet BLP and Soviet at opposing ends of pole. Why?

It is clear that masses of Europe and rest of world are tending toward Socialism and their parties. What does it mean?

CCF in Canada; New Zealand, Australia have socialist govts; Italy; now Japan etc.

There is a layman's belief that socialists and communists are brothers under the skin. Yet violently oppose one another. True?

We'll hear it argued that victory of BLP, a socialist victory, gives democracy another perhaps a last chance to hold out against the onslaught of the totalitarian state...Also, that the Soviet Union in all essentials, also a "socialist" state, epitomizes greatly the danger to democracy...Is this inconsistent? Why?

Important as the central question of our time. We'll discuss the questions, arrive at definitions, concepts, understand the rise of Socialism as a product of the breakdown of the capitalist culture we discussed during the first week.

KARL MARX

Although socialism and communism existed as theories before Marx (French Diggers, Babeuf, Saint Simon, Fourier, Owen), they are within "Utopian Socialist" category. It wasn't until 1830's and 1840's that we have the growth of so called "scientific socialism", which has exerted such a powerful influence on the political, social, economic and cultural thought of the last century and which seems destined to play a still larger role in future historical development.

The real author of scientific socialism was Karl Marx, a brilliant young German Ph.D. , assisted by a young German businessman with a bent for economics, Friedrich Engels....Their Communist Manifesto issued in 1848 stands today as a monument to their revolutionary abilities. It was both an interpretation of the role of the working class in past and future history and also a clarion call to labor to unite for the purpose of securing its emancipation and, through that emancipation, the freedom of all mankind.

As an undergraduate, Marx was a brilliant student of a wide variety of subjects: law, philosophy, history, literature, art.

[When in school, he became a confirmed Hegelian with its philosophy of eternal change, endless evolution.....In the process of exhaustive study, he became ill..But he continued with his intensive study much to grief of parents (Laideler, p. 124)]

At 23, he became Ph.D. ; gave up law for philosophy. But as a non-conformist, he could not get a University job.

Turned to free lance journalism, determined to criticize the status quo and sweep away old dogmas....At this time, not being an economist, this meant spiritual freedom in religion and liberalism in politics.

Began writing for "Rheinische Zeitung" founded by some of his friends. His comments so trenchant that in Oct. 1842, he was asked to become editor....This made him come face to face with

so called material interests. He began to investigate economics. Found himself incapable of judging...Resigned to have more leisure for study.

Emergred from his reading at age of 25 a convinced Socialist . having read as avidly into the literature of the time as he had before in the philosophy of Hegel. .."This system of acquisition and commercialism, of possession and of exploitation of mankind, is leading even more swiftly than the increase of population to a breach within the present society, which the old system cannot heal".

By 1843, he came to conclusion that if any revolutionary change was to be brought about in industrial conditions, it was to come through the efforts of labor, not the owners of industry.

In 1844, he met Friedric Engels, then a young businessman of Manchester, 24, who had written an article condemning the economic system as an injustice, but without embracing socialism....This friendship was enduring and beautiful, lasting for life and permitting Marx to continue his work.

Continued his study and writing and in 1848, during the European revolutions of the year, wrote COMMUNIST MANIFESTO.

HEGELIANISM

Marx tremendously influenced by Hegel. Essence of Hegel's logic was the dialectic. His method conceived that change takes place through the struggle of antagonistic elements and the resiliation of those contradictory elements into a synthesis, the first two elements forming a new and higher concept by virtue of their union (thesis x antithesis -synthesis)....To Hegel, the contradiction, negation was the source of all movement and life. Only insofar as it contains a contradiction can anything have movement, power, effect.

Hegel never applied this theory to social relations. Marx was the first to apply it to social sciences.

The thesis was private property; antithesis was the proletariat. As a result of conflict between private property and the rising proletariat, a synthesis will emerge, a new form of society, in which neither will exist - only a classless society!

This new concept important for all successive historical conditions are places of pilgrimage in an endless evolutionary progress of human society, from the lower to the higher.

"When the proletariat proclaims the dissolution of the existing order of things, it is merely announcing the secret of its own existence, for it is in itself the virtual dissolution of this order of things. When the proletariat desires the negation of private property, it is merely elevating as a general principle of society what it already involuntarily embodies in itself as the negative product of society".

This is the basis of Marx's dialectic materialism. A form of religious myth, free of divine personality but tied up with the history of mankind. "I hate all the gods", he said in his youth, but he set up one now.

REVOLUTION OF 1848

The spirit of Marxism can only be understood when studied in relation to the condition of the times: ruthless exploitation of men, women and children by rising capitalists; economic crises; revolutionary displacements of the machine age; utter lack of organization on the part of the workers economically or politically; widespread disenfranchisement of working classes in most European countries. ---Led to agitation, signs of rebellion.

France in 1848 governed by King Louis Phillippe and his prime minister Guizot, corrupt and all powerful. Discontent forced Guizot's resignation and on Feb. 23 large demonstrations before Paris Foreign Office....Shots...By dawn, barricades all over Paris...Insurrection...Louis Phillippe resigned...Republic proclaimed.

A few weeks later, students in Vienna demonstrated, forced resignation of Metternich who had ruled rigidly.

Countless revolts in Italy, German states.

Lasted only few months; defeated by armed forces.

Marx wrote Manifesto in that atmosphere. He was banned from Belgium and went to France. A "League of Communists" had been formed in 1847 at a London Conference and manifesto prepared at their request...Actual belief that time for change arrived.

COMMUNIST MANIFESTO

Dense with the packed power of high explosives. In 40-50 pages, it compresses with terrific vigor a general theory of history, an analysis of European society and a program for revolutionary action.

Its fundamental proposition is that the whole history of mankind since the dissolution of primitive tribal society and the common ownership of land, has been a history of class struggles, contests between exploiting and exploited, ruling and oppressed classes; - that the history of those class struggles forms a series of evolutions...It is a Darwinian theory applied to history.

Capitalism thus played its role, revolutionary, in destroying feudalism. He did not minimize its accomplishments. But it cannot last. It has inner contradictions. "A society that has conjured up

such gigantic means of production and exchange is like a sorcerer, who is no longer able to control the powers of the nether world whom he has called up by his spells".

But not only has the bourgeoisie forged the weapons that brings death to itself, it also calls into existence the men who are to wield the weapon: the working class..Workers, with the growth of industry, become insignificant cogs in machine. As their skills become less essential, they become more exploited....The middle class also disappears and sinks into the proletariat as small capital cannot compete against large capital.

The workers will then come to realize that their interests are opposed to the bourgeoisie. They will form trade unions to escape evils of a precarious livelihood..They will have occasional victories. Will become more expansive....Communication will aid their growth.

As the struggle becomes national and political in nature, labor parties will emerge. Interbational implications become evident.

Meanwhile the Communists have an active role to play. They are to be part of the working class parties. It's their function

to educate the proletariat; make them understand common interests; act as the most advanced section of the working classes of every country, pushing all other sectors forward. A vanguard!

All must be directed toward raising proletariat to position of ruling class, take over state, centralize all production in the hands of the state...The Manifesto then sets forth immediate demands designed to abolish class distinctions and put control of production in hands of all people.

This, Marx knew, would repel many motivated by bourgeois ideals and his work protests against those ideals, bitterly.

To those who talked of "Justice", Marx and Engels replied: "Justice for whom?" Under capitalism, the proletariat have no justice, starve and are driven to commit most of the crimes.

To people who talked about "Liberty": "Liberty for whom?" "You will never be able to liberate the workers without restricting the liberty of the owner".

To people who talked about "Family Life and Love", they said these things were the exclusive possession of the bourgeoisie. Families of workers are dismembered by employment of women and children in factories and young women are reduced to selling selves.

To people who talked of "Good and True", they said people involved in a society of exploitation with a stake in oppression cannot understand their meaning.

The Manifesto thus calls for forcible overthrow of all existing social conditions. The proletariat have nothing to lose but their chains and a world to gain.

SIGNIFICANCE: Turning point in socialist thought. Last words of Manifesto a declaration of war against bourgeoisie. No longer is stress on All Men Are Brothers of Utopians. Now: "let the ruling

classes tremble at the prospect of a communist revolution".

Prevalent idea of a righteous war, righteous hatred.

But significant too for effect. Addressed to "Workers of all lands", it has made its way to all continents in all languages. ...Before Marx and Engels, there were only cries in the wilderness; little more than inchoate protests against injustice. ...Now there was direction, a sense of historic mission and dignity. Socialists now had a purpose and a historic background...Thus there began a long process of welding together of scattered groups of dissidents into an organized and influential party.

MARX IN LONDON

After the demise of the 1848 revolutions and rise of counter-revolutionary elements, with understanding that the revolutions were premature, Marx banished from Paris and went to London where he spent practically the remainder of his life.

Spent practically all of his time in British Museum gathering material for his later CAPITAL...Father of 6 children and in dire need with intermittent illness...Wrote "Critique of Political Economy" in 1859.

Began living in fashionable suburb, but evicted in 1850 for inability to pay rent.

Wife Jenny: "Don't imagine that those petty sufferings have bent me. I know only too well that our struggle is no isolated one, and that I in particular belong to the specially fortunate and favored, for my dear husband, the mainstay of my life, is still by my side. The only thing that really crushes me and makes my heart bleed is that he is obliged to endure so much pettiness, that there should be so few to come to his aid, and that he who has so willingly and gladly come to the aid of so many, should find himself so helpless here".

"as neurotic about money. He did more than anybody else to call the attention of the world to economic motivation and yet was incapable of doing anything for gain ... On only one recorded occasion during his 30 years in London did he attempt to find regular employment: "I shall not allow bourgeoisie society to turn me into a money making machine".

Engels had to support him. Wrote occasional articles for New York Tribune...Engels' letter requesting money..Back to "filthy trade

Kept ties with European socialists. In 1864 First International Working Men's Association met in London. Marx wrote Inaugural Address and Declaration of Principles.

Soon torn by factionalism. Bakunnin challenged Marx who transferred it to NY in 1872. Died in 1876.

In 1867, first German edition of monumental DAS KAPITAL: "a critical analysis of capitalist production".

Marx continued studies of American and Russian agricultural conditions, Balkan economics et al, in spite of pain. Gathered material for Vol. 2 of Capital.

Died on March 14, 1883.

DAS KAPITAL

Uses England as the chief illustration of modern industry as the classic land of capitalism.

As capitalist production grows, capital concentrates in fewer and fewer hands. Labor productivity increases and the demand for labor decreases causing unemployment and poverty.

The accumulation of capital is thus accompanied by accumulation of misery.

This contradiction forces capitalism to dig its own grave, for conditions lead to working class revolt.

A work of art as well as science! The poet at work: satire and irony...Argument in defense of crime: produced by the criminal just as the philosopher produces ideas, the poet verses, the professor manuals and practicing it is useful to society because it takes care of the superfluous population at the same time as putting it down gives employment to many worthy citizens.

In his impersonal looking formula, he never lets you forget in spite of his scientific air that he's talking about pennies withheld from pockets of workers, sweat squeezed out of bodies, natural enjoyments denied his soul...through all the arguments and figures, you see the realities of the crude human relations.

And vice versa. The theory and logic of capitalist laws at work are there followed by chapter of factory reports, pictures of conditions.

Became "Bible of Working Class".

ENGELS

Lenin took 12 years to complete second volume.

Autsky put out a third volume.

MARXIST THEORETICAL FOUNDATIONS

- 1- materialist interpretation of history.
- 2- doctrine of class struggle
- 3- theory of value.

1) In any given epoch, the economic relations of society, the means whereby men and women provide for their sustenance, produce, exchange, and distribute the things they regard as necessary for the satisfaction of their needs, exert a preponderant influence in shaping the progress of society and in molding political, social, intellectual and ethical relationships....This does not mean that all history is to be explained in economic terms alone, but that the important factor in social change is the economic

The economic interpretation of history means that things economic exert a preponderant influence in shaping the progress of society, not an exclusive influence....Previous to Marx, great changes in history were attributed to great men; development of ideas; religious beliefs; physical environment of climate, food, soil.

But Marx, the Hegelian, was a firm believer in idea of process, the belief that all that exists is destined some day to pass out of existence and that growth and change occur as a result of the conflict of opposites. He came to believe that all social institutions are the result of a growth and that the causes of the growth are to be sought not in any idea, but in the conditions of material existence.

2) Class struggle, as we saw, always have and always will take place in society until such time as the worker shall become the controller of society. All will then be producers and society will be emancipated from all exploitation, oppression, class distinction and struggle.

3) The economic base.

"The common social substance of all commodities is labor... A commodity has a value because it is a crystallization of social labor. The greatness of its value or its relative value depends upon the great~~xxxxx~~er or lesser amount of that social substance contained in it; that is to say, on the relative mass of labor necessary for its production. The relative values of commodities are, therefore, determined by the respective quantities or amounts of labor, worked up, realized, fixed in them".

In estimating the amount of labor embodied in a commodity, Marx argued it is not only necessary to consider the quantity of labor last employed in producing the finished article, but one must look to the labor previously put in raw material, tools, machinery, buildings... So the value of cotton yarn is quantity of labor added to cotton during the spinning process plus quantity of labor previously realized in the cotton itself plus labor in coal, oil, and other substances used plus labor in steam engine, spindles etc.

Price is not to be confused with value. It is but the monetary expression of value.. To the extent that it is merely the monetary expression of value, it is natural price. But there is also a market price which differs depending on supply and demand. They equal each other when supply and demand equal each other (with monopolies, they do not equal each other)

The same thing goes for value of labor. The laborer needs a certain number of necessities to grow up and maintain his life. But, like the machine, he sooner or later wears out and must be replaced by another man. Thus besides the necessities desired for his own maintenance, he wants another amount of necessities to bring up and maintain a certain quota of children to replace him on the labor market and to perpetuate the race of laborers.

Surplus value comes in when the worker puts in more labor than he's paid for. The capitalist gets it. All this surplus is profit, interest, rent.

Profit itself is limited as to maximum by the minimum of wages and the physical maximum of the working day. The rate of profit, therefore, varies.....The actual rate of profit is settled "by the continuous struggle between capital and labor, the capitalist constantly tending to reduce wages to their physical minimum and to extend the working day to its physical maximum, while the working man constantly presses in the opposite direction".

Capitalists have the edge in the struggle because with the progress of industry, the demand for labor fails to keep pace with the accumulation of capital.

Workers should resist, but not merely by cry of "A fair day's wages for a fair day's work", but "Abolition of the wages system"!

MARX APPRAISAL

Years have given him a new luster and a secure place as one of the great economists, social scientists, historians and leaders of the working class movement of all time.

He made his mistakes in calculating the speed with which the great change was to be brought about, but he prophesied with remarkable insight the general direction of that change.

He put into the forefront of social discussion, the ultimate question of the condition of the people. And he performed the incalculable service of bringing it a message of hope in an epoch where men seemed to themselves to have become the hopeless victims of a misery from which there was no release...he became a source of inspiration and prophecy to men concerned with the task of improvement.

Most modern historians now follow Marx in emphasizing the importance of the economic factors in past and present history, although many of them are somewhat agnostic concerning a like influence of economic factors for future social changes..His revolutionary effect, therefore, can hardly be overestimated.

Many socialists accept economic interpretation and class struggle, the sociological bases of Marx, but reject labor value.

Many have been able to take from Marxism an ethic and reject myth of Dialectic. (Wilson, pp. 197-198.)

ANARCHISM

Political authority in any form is unnecessary and undesirable. In recent anarchism, theoretical opposition to the State usually associated with opposition to institutions of private property and hostility to organized religion.

Serious disparagement of political authority not new. Philosophers for centuries have held for social conditions in which men able to act freely in response to natural instincts of sociability and justice... based on benevolent view of human nature. Many early anarchists were Christians who said religion was an adequate guarantee for a just and orderly civil life without govt restraint.

The 17th and 18th century doctrines of natural rights for freedom and equality are ancestors of recent anarchism... Laissez faire economics is anarchist.... They assume the social and cooperative man rather than self seeking and competitive.

William Godwin (1756-1836) first modern anarchist. A minister and author he was first clearly to associate opposition to political authority with an attack on private property.... Ordinary men act reasonably and justly when not perverted by unfair economic conditions maintained by coercive intervention of the state.... Man's normal impulse is to associate in voluntary groups.

Reverting to man's normal state is slow and change should be peaceful by persuasion; but aim is ~~extinction~~ extinction of whole state system: courts, legislature, police... deal is small self-governing communities with equality and no private property.

PROUDHON: (1809-1865) First to call himself anarchist..From Golden Rule and natural law of justice, he derived right of everyone to full product of his own labors..Institution of property, which prevented this, was theft, for property meant profits, interest, and rent. Not, therefore, opposed to all property....Opposed to State and all organizations even trade unions...Insisted, like Godwin, on peaceful change.

Godwin and Proudhon influenced many Americans, particularly abolitionists in slavery who saw ~~state~~ ^{state} to be violence, men like Garrison and others who understood both passive and active resistance to state in struggle against slavery....."any "non-resisters" who refused like Thoreau to take part in govt and refused to use force with or against govt.

In ~~xxxxxx~~ America, theory began to be refined when men like Tucker, continuing their opposition to state because of its coercion, still favored regulations in the voluntary associations they set up, to be enforced. Differed from state in right of secession and voluntary joining...."no citizenship by birth.

POLITICAL SCIENCE 10

To what extent or in what spheres may govt properly control individual conduct?

Problem not solved by choosing able leaders for men of high intelligence and lofty ideals are often, as political rulers, intolerant and meddlesome or paternalistic.

Nor is democracy alone the answer, for a majority may often coerce minorities.

"unemployment insurance" "GI Bill of Rights" vs. "don't tell me how to run my business".

Happy medium? It is clear in complicated society of today that there must be some govt restraint upon individual choice. In what activities? Where free? Most difficult problem of political theory. No clear and practical solution has been found.

JS MILL: "The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others"----Where consequences of an act affect only doer, govt has no excuse for intervening. It is not task of laws and conventions to compel a man to be prudent, temperate or self-respecting. Let him acquire those virtues by experiencing the penalties of neglecting them.

Widely held, but presents uncertainties.

All may agree govt may not punish for drinking liquor even if it injures his health. Yet govt may punish him if he drives while drunk or insults others. Middle point?....WCTU says liquor consumption leads directly to lawbreaking conduct, hence govt ought restrain its manufacture and sale so as to prevent injury; but doesn't this restrain sales to vast no. of buyers who affect only themselves?

Same with labor.. Freedom of contract in fixing hours wages

and conditions of labor and when workers contract to work freely any injuries they suffer are personal and don't affect others so that govt ought not interfere vs. community suffers from physical weakening or social degradation.

Further difficulty with problem because those who favor freedom in morals and opinion support extreme govt regulation of private industries.... Those who support moral thought restraint oppose wealth interference.

Millsian 19th individualism a la John Milton, grew out of protestant doctrine of individual conscience supremacy over ecclesiastical authority:

- a) restraint hampers development of individual personality.
- b) deprives society of means of discovering truth and accepting it.

Discredited opinion may be true for majority not infallible. Socrates and Christ. If it is partially false even, restraint loses truth element. Even if all false, restraint doesn't convert advocates. No help for Bourbons, Romanoffs, Gapsburgs.

"The best ~~truth~~ test of truth is the power of the thought to get itself accepted in the competition of the market".

- c) Makes popular govt impossible. Criticism vital.
- d) Experience develops ability.

Philosophical basis of position is not preeminently interested in govt security. National security and political stability not ends in themselves. Paramount aim of all social institutions is free development of human personality. Political authority is, therefore, only good where it helps make possible that development. Supreme test of human progress is measure of intellectual and moral freedom that individual men and women enjoy.

ECONOMIC LAISSEZ FAIRE:

Adopted from individualism stressing fewest possible limitations upon acquisition and use of private property. Creed of conservatism. Worked well in 18th century when removal of feudal restraints facilitated development of commerce and industry. But this led to industrial strength for few and demands for govt interference.

In its extreme, holds owners of property should be free to accumulate as much property as they can. Private property is natural right of man; economics must be unhampered for natural pricelevel; competition leads to natural selection; govt interference harmful in itself.

As modified out of experience and concentration of wealth evils, the judgment of interference is to be empirical. Govt can act where experience show it likely to promote human welfare or to solve conflicts. Hence weights and measures, public health, monopoly regulation, unfair business regulation, natural resources, public utility ownership or control.

Its essential aim is to preserve private property or socially safe institutions and regulate only to extent necessary

Some conomic laissez-faire people want political action to protect and enforce contracts in law. Yet, logically when one protects one also restrains.

With a change in industrial methods, new forms of ill health and economic insecurity for workers plus increasing concentration of capital leads to the idea that ordinary man's chance of enjoying the advantages of modern civilization rest increazingly in the hands of a small number of capital owners who, accepting the teachings of economic individualism, act on the assumption that "in running their own business" they have no general social obligation, and that they serve the general interest best by pursuing their own economic gains.

From early 19th century, "fair play" led to economic legislation: hours, sanitary and safety conditions, social legislation, minimum wages....Government is useful instrument to help men achieve aims.: fairer distribution of wealth, more adequate supply of life's necessities.

T.H. GREEN - IDEALIST

Political authority is justifiable and obedience to law is morally obligatory. Men join political associations for freedom and in turn allow their lives to be regulated.

Coercive authority, therefore, exists for their own good and reflects their own will. Political compulsion and punishment are justified, for the common good.

Supreme coercive authority is an indispensable attribute of the state. But this force must be for maintenance of rights, in accordance with law, with popular convictions.

The states' work is to remove external hindrances to voluntary performance of good acts. Hence it must help create social conditions in which there will be fewest possible impediments in way of each making the best of himself..Hence govt may interfere.

The state provides public education, regulates factories, defines conditions of land tenure, employment, prevents adulteration of food ("Reach for a Lucky, Instead of a Sweet")

Green not a state absolutist. If a state fails to serve the high moral purpose for which it exists, it loses its claim upon allegiance....But citizen opposition should not be for personal well being, but for community welfare alone.

* * *

Other political idealists exalted political authority much higher.

EMPIRICAL SCHOOL - State interference only where necessary and helpful:

weights and measures; public health; monopoly; public utilities; unfair business practices; anti-trust laws.

* * *

MODIFIED CAPITALIST LAISSEZ-FAIRE:

Out of the growth of monopoly and wealth concentration. Calls for moderation and flexibility, Empirical, based on evidence. Govt intervenes when experience and common sense show it likely to promote human welfare.

No talk of natural or moral rights in private ownership. Where people interact, conflict often results and govt can restrain acts even if not intrinsically wrong. (weights and measures, public health safety, monopoly regulation, unfair business practices, preserve natural resources, public utilities)

Still reluctant to accept govt ownership of private enterprise,

proce and profit control.

Essential aim and philosophy: preserve private property or socially safe institutions - regulate only to the extent of clear necessity:

a) because it is beneficial

b) because incentive and desire to excell brings progress.

Constitution & Ethics

The part that individual live together with others in a community or an association leads to some more or less generally accepted rules.

Rules are implicit: poker game with pair of kings and queens.

In a state, the manner in which these rules, political activity or power, become solid as legitimate ^{power} & the rules themselves are collectively called Constitution or Constitutional Law.

Before going into greater detail, we note 2 things.

1 - Clearly observable tendency from the 17th century, at least in western states, to write down these rules of behavior in ever more detailed and comprehensive fashion and establish them on a permanent basis as possible.

2 - Not all constituted rules are written, or even expressly authorized in laws. - Furthermore, customary activities and institutions grow up outside the written Constitution and form the "unwritten" Constitution. (Sometimes they are as far from recognition that they are called "unwritten law" - unless Party System not part of Constitution)

Constitution is the system of fundamental political institutions, ^{laws, customs} in a state.

System - Shows fund. political institutions wholly connected with each other. - Harmony - Each part of a constitution, in what must be read together with all the other & its real meaning is to be discovered.

The system also means a harmony with the social environment. When it doesn't correspond, it will either be ignored or dropped (electoral college; election; Senate by legislature).

Fundamental - What is it? How far do you have to go? What do you include?

Depends. - What is certain is that they desire to reduce uncertainty to a minimum. World is full of uncertainty, and meeting them brings effort, strain. Political matters are certainly unpleasant. Bad enough, in an about 60 yrs. ago, that our liberty, prop., religion, family, law, friends are threats over us. But every day world is intolerable.

So that men decide to limit the changeableness of things and establish stability.

Form of Constitution -

Written or Unwritten - All know distinction. US - Brit. - Fund. principle
inst. of G.B. are not set down in writing in any formally accepted document.
They are regulated by:

1 - judicial decisions; 2 - a number of statutes; 3 - understandings and customs.

① based on ancient promises of Kings, "immemorial rights and liberties", concessions made by kings in conflict for power.

② more deliberateness, (Parliament Act 1911)

③ political usages grew piecemeal, chiefly ^{establish} ~~regulate~~ the powers of Parliament, resp.
Adapted to Parliament and to the people.

Yet judicial decisions, statutes, expressions are all a part of written
const. law. Are explicit, understood with fair exactness, recorded in more or
less books. - What is different?

1 - customs not written, are taken for granted. (political parties in US)

2 - some freedom, institutions, free education, parties, free religion not included when they are other.

3 - no body of people ever called together and deliberately entrusted with establishment of const.

Then diff. not absolute - just relations, a matter of "more or less"
of degree more right to lawyer than political scientist.

Written Constitution develops in part from 2 causes:

1 - new power relationship after violent collapse leading to new definite coherent order, power and desire to be protected,

2 - united action among no. of states to avoid wars & quarrels (USA, Swiss, Australia)

Shows that first written attempt in England in 1649 - failed. In 1653, Cromwell's Instrument to define powers. Ended with Restoration.

Colonists inherited ideas, being new they needed a basis of cooperation.

By 1780, there were 13 Const. in all the colonies, now states. (Virginia's in 1776 established basis for Decl. of Rights) were written, deliberately conceived and recorded arrangements by which men declared their lives bound for the future.

Center of interest then shifted to France where struggle was taking place v. arbitrariness. Result to freedom, laws already evolved by Montesquieu & others who laid out "rights". A French American example (John Adams, Franklin, 1783 all were translated and published) - French Decl. of Rights of 1789: "solemn", "sacred".

(Preamble) "in order that this declaration, being constantly present to the minds of members of the body social, they may forever be kept attentive to their rights and their duties; that the acts of the legislative and executive powers of government, being capable of being at every moment compared with the end of political institution, may be more respected and also that the public drawing the citizen, being directed by simple and incontestable principles, may always tend to the maintenance of the constitution, and the general happiness".

Between 1791-1875, 12 imitable constitutions vanished into limbo.

In 1875, 13th Const. conf. Third Republic - It is not compact and complete and has no Bill of Rights (implied); very fragmentary. - Today, 14th

US in 1787

Political Effect of Written Const - any advantage?

In terms of effect, little adv. if any. It is not more revered, solemn or fundamental than unwritten. - Furthermore, it changes without writing (Const. after Civil War diff'd from Const. before; Sup. Ct. now is const. council in permanent session and not democratically resp.)

Neither are they more conclusive or binding; nor less subject to controversy than Britain's; nor more certain or definite appeals (all subject to interpretation). - US cases just on 30 pages, Const. can more than 1000 pages; statute explains & elaborates (Herman 1919 ended every article with "a law shall state the details").

Const. not detailed when written - (des. to get detailed agreement)

No written Const. can stand by itself - needs completion - Some pretend that and they're no different from laws in a country with an unwritten Constitution.

Thus, it is not the writing of the Const., which safeguards, but the obstacle to amendment. The amending process is of more importance than the writing, and the writing is incidental.

The essence of a constitution is its inflexibility as compared with ordinary laws. — To amend is to deconstitute and reconstitute. — That is the respect in which all other constitutions differ from the British Const.

Broadly speaking, in the Brit. govt system any inst, fundamental or not, is alterable, and can even be abolished — simply by a bare majority in Common. — An act to abolish any power of the Lords or to restrict power of local unions can be passed by the same procedure as an act relating to vulgar pensions.

US Const. purposely made difficult to amend.

Art. 7 — (1) $\frac{2}{3}$ of both Houses can propose Amend. (always)

or (2) $\frac{2}{3}$ of legisl. of $\frac{2}{3}$ of states can call a conv. to propose Amend —

or (3) $\frac{3}{4}$ of legisl. of several states (always except 2/3 am)

or (4) convention of $\frac{3}{4}$ of several states (2/3 Amend)

THE JUDICIARY

No man can overestimate the importance of the mechanisms of justice. No test is more decisive than the degree to which justice, as defined by the law, is actually realized in its judicial administration, both as between one private citizen and another and as between citizens and government.

Even such things as seem on the surface to be insignificant procedural changes are more nearly related to freedom than splendid speeches made by our greatest statesmen - as when a man becomes entitled before trial to a copy of the indictment upon which he is charged, or is able, in the witness box to testify upon his own behalf, or may appeal from a verdict of a judge and jury to a body beyond them.

Obviously, therefore, the men who are to make justice in the courts, the way in which they are to perform their functions, the methods by which they are to be chosen, the terms upon which they shall hold power, these and their related problems lie at the heart of political philosophy.

When we know how a nation-state dispenses justice, we know with some exactness the moral character to which it can pretend.

Separation of powers here significant. For if executive could shape judicial decisions in accordance with its desires, it would be in a position of being Master of the State.

What is the general nature of the proceedings which take place in a court of law?-----A: Eliams he has been wronged by B..Did B act as charged? Does the act constitute a wrong? If so, what is the penalty?

Certain difficulties are here. The court finds the law! But in finding it, the court also makes it! No statute has ever been drawn that has covered or can cover the infinite variety of acts of which human ingenuity is capable.

Some of the acts are covered by statute, as when a man forges banknotes and meets the penalty involved... Other acts may be included by what the court will deem to be the intent of the legislature.... Others will be settled by reference to judicial precedent.

The problem is relatively simple when there are statutes and precedents.

But when the US Supreme Court held that a NY statute prohibiting night work in bakeries was unconstitutional under the 14th Amendment, whatever moved their effort, it was neither statute nor precedent. They were trained in law, but certainly a body of trade unionists also trained in the law would have reached another decision.

There are judges who never give alimony; some who melt in a woman's presence.

The judge is thus bound not only by statute and precedent, but by his conception of what ought to be the law....Cardoza: "We may try to see things as objectively as we please. None the less, we can never see them with any eyes except our own".....As soon as the judge is free to make law, the guide he follows, the test he applies, is the experience of life that he knows...Law thus is made in terms of what life has meant to those who make the law.

What does this mean in terms of our democratic values?

Obviously, the courts cannot be a final source of state decision. It represents only what its makers represent and is limited by the narrow experience possessed by average judge. The larger, therefore, the field in which the legislature can lay down rules of general

guidance, the more will the courts be able to respond to the popular view of justice.

Our own Constitutional procedure as to US Supreme Court is thus open to serious criticism, for it makes the court the effective master of social change....Hence in the 1930s there was much disrespect for law as a result of perception that the court could on purely technical grounds prohibit one or a series of experiments approved by legislatures.

The Supreme Court, in spite of protestations, makes law. They even influence statute law (Sherman Act) (John Marshall influence). Even as to precedent "a judge may decide almost any question any way, and still be supported by an array of cases".

This brings to fore the contrast with British system. Under our system the Constitution is superior to all other judgements; and the Courts interpret the Constitution. In other words the Courts are superior to the judgement of all other institutions, including Congress

It is clear that there are many opportunities for the personal prejudices of the judges to have effect on the Constitution. After all a Constitution of 28 Articles and 8000 words made to fit one society cannot be expected to stand alone and serve an entirely different society today...The US of today differs from the US of the late 18th century with its 4 million people and 15 sparsely settled agriculture communities. Our nation of 48 states and 135 million spread over a diversified continent as an ultra modern industrial and agricultural civilization is certainly not served by the rules of the old era.

In the US, the new problems are met through a tribunal superior to Congress; in England there is none superior to Parliament.

It may be said that the Constitution rather than the Supreme Court is superior to Congress, but this only a verbal quibble, for the Constitution does not speak. Men construe the Constitution. These men can not know what the constitution originally meant.

Fundamental difference then between American and British Constitution is that whereas the British Parliament, democratically elected, is the ultimate authority upon the appropriate principles of the Constitution at any given time, the American Congress is only the court of first resort and instance in the decision and is overruble by a Supreme Court of 9 not democratically chosen.

The apology for the system is that we must have a fundamental law in the form of a writtem constitution overriding legislative enactments not in harmony with it...There must be a final arbiter in federal system and within departments to keep separation of powers... People must be protected from people in power; govt of law and not men.

But basic to this is a set of unexplored premises: It assumes that fundamental law is superior to legislative enactments (despite English example)...It assumes that other departments are not as capable as judiciary in task of constuing constitution.... It assumes on part of legislature and executive an imperialist thrust for power. (Justice Stone: "the only check upon our own exercise of power is our own sense of self-restraint".)

Name - Kirk away voluntarily -

No preparation mixing gin and grape juice right before.

We'll talk about something I know. - Elections are out as old. But "Angel Gabriel" joke.

Discuss reaction of post-revolution. - Terms confused today, Reactionary is one you don't like; conservative is a man who will not look at the new moon out of respect for that ancient institution the old; liberal is one with feet planted firmly in mid-air. - But they mean something.

We'll take one phase; - That's Cant and its leading light.

John Marshall who expressed Federal view long after his Party was repudiated at polls in 1800.

No man can overestimate the importance of the mechanism of justice and the Courts. No test is more decisive than the degree to which justice, as defined by law, is actually realized in judicial act.

Even procedural changes more significant than speak of statesman or to freedom.

a) copy of indictment before trial

b) testimony in own behalf

c) appeal from verdict of jury and judges.

What about U.S.?

Dr. Toqueville: "If I were asked where I placed the American aristocracy, I should reply without hesitation that it is not composed of the rich, who are not united together with any common tie, but that it occupies the judicial bench and bar." - Why?

Look to Constitutional Committee and more directly to the reaction which surrounded John Marshall.

Supreme Court composed of judges appointed for life by the President and Senate (2 fed. agencies removed from direct contact with populace) — Hamilton (Fed. 78) and others hoped that Court would have power of declaring acts null and void, but no such statement for fear of popular opposition (not yet settled)

Hamilton: Friends of good gov't thought that "every institution calculated to restrain the excess of law making and to keep things in the same state in which they happen to be at any given period was more likely to do good than harm"

(strange sound for those who had just come through a revolution, but welcome to propertied interests)

Marshall of same school — respect for established institutions (Conservative = mean) Defender of propertied interests.

Marbury v. Madison (1803) declared act of Congress unconstitutional.

(Judiciary Act of 1789) — Constitution supreme law of land. Controls and binds all. — If Congress could ignore its limitations and trespass upon the privileges of citizens, Constitution would disappear and Congress would be sovereign. — Since Constitution must be supreme over Congress, it is duty of judges, who swear to uphold it, to sustain it vs. measures which violate it. — "A law repugnant to the Constitution is void and the Courts as well as other departments are bound by that instrument".

Yet, President and Congress also take oath. Why not accept this word as interpretation.

Jefferson: - Decision a suicide. Rather than 3 indep. depts, the opinion gave judiciary alone supremacy and it was unrelated and independent of nation.

Furthermore, the act itself was drawn up by Ellsworth, his predecessor as Chief Justice, by James Madison ("father of Constitution"), signed by Washington who presided over Convention. - Nevertheless, Marshall here impliedly accused them all of not understanding the Constitution.

Marshall didn't stop with declaring acts of Congress void. He set aside imp't state legislation.

Yazoo Fraud Case - A legislature steeped in corruption bestowed lands on private investors. - New legislature revoked it. - Marshall to defend of property owners declared bestowed to be a sacred contract. - Despite fraud and public interest, it was an inviolable contract. - First of a long line of decisions defending prop. rights against public interests.

Now what does that really mean for us ? ?

All people have prior notions and sacrosanct expressions which make truth and free thought seem improper. — Thus the British attribute everything to the pleasure of His Majesty, the King. — The King is always "pleased" to sign the appropriation bills, though he would lose his job if he did not.

We in U.S. also have fiction — Many center around legendary fallacies and historical errors as regards our Constitutional system.

The "man in the street" has a conception of a vague mental picture of a document which he has probably never read through but which he has been taught to believe contains clear-cut answers to all possible questions.

He accepts an idea that Const. law is solemn will of people expressed in written Constitution. By this is demonstrated, the only procedure is to change Constitution.

(Of course, "Constitutional lawyer", unregarding precedent of our system, doesn't even look at document for Const. law. He looks at the decisions. "a government of lawyers and not of men". —

[Change by changing decision. Lawyers never agree. — end to end.])

(Don't report me to fellow member of Bar Association — even diffidently — But "It's a circumstantial lawyer — They all are but it's hard to prove it sometimes.")

F actually, sophisticated of us see through amazingly unbelievable fiction.
Unless we claim that the people who adopted the Constitution
in 1789 had supernatural foresight. — Cannot
reasonably maintain that they foresaw modern conditions
and provided for them.

Must be that if we're still guided by it, with relatively few changes,
then the process of Const. interpretation is really a form of
Const. making, legislation.

Sup. Ct. is thus a continuous constitutional convention. (Results
of its vote need not be ratified by people.)

Thus a fiction to say judge decides constitutionality by reading statute
and then Constitution for square or cogwheel. — Actually, he
legislates. — To extent he legislates, he violates democratic
doctrines. — Represents reaction in American political
thought.

Clear that personal bias enters in judicial decision, via a vis training,
economic ideas or background. (Judges never get along — often militate in
woman's person.)

What is "interstate commerce", "due process of law", "police power"
(not even in Constitution)

When US Sup. Ct. held NY statute prohibiting night work in
bakeries unconstitutional, whatever moral this effort, it is
clear that body of trade unionists also trained in law
would have reached another decision.

The people of 1789 didn't present for the problem.

To say that people of 1789 intended to give Congress power to prohibit lottery tickets (1903) and not to regulate insurance policies (1902) has no support. — In fact, it runs counter to views of 18th century when lotteries were the foundation of charitable institutions and insurance underwriting was considered a form of gambling.

(Nor is there any justification in Const. for saying that Congress can order N. to introduce certain Coughing devices (1911) but cannot prohibit N. from discriminating N. men joining labor union (1908 until 1932, Adair.)

The essence of a constitution is its inflexibility as compared with ordinary laws

US amending process intended to make change difficult. It has made change almost unattainable, - The ruling classes of the day liked the system of: sanction for contracts, soundness of paper money, descent of democracy. (Smith - spirit of Amer. Rev.; Read - Econ. Integ. of Const.)

US Const. formally amended 21 times. Last one passed in 18th, - in 3 main groups.

a) I-X = Bill of Rights added by states almost at once within 3 years

XI = greatly limited authority of Sup. Ct.

XII = aimed injuriously as to choice of President

b) XIII-XV = All made between 1865-1870, Civil War. To secure complete emancipation of slaves (Used to protect property; as much for certainty of Const.)

c) Others

XVI = Federal income tax

XVII = States made election of Senate

XVIII = Prohibit

XIX = women's suffrage

XX = Fair Coin

XXI = repeal of

In analyzing Amendments, who has the power to alter the Constitution is master of the State - Written Const. have rule making process difficult. - England has no rules, Bare maj. of Parl. acts. In practice there is constant control themselves and not controllers of Constitution; Easy to amend mistakes.

Since character of Court is supreme, how secured?

- a) Courts of Law (US, Aust, Canada, Sweden).
- b) Political insts; i.e. represent. assemblies (Fr B., Germ, Spain)

1) Nature of diff?

In England, no legal authority can declare an act of Parliament invalid, or annul such — In US, any act may be compared with Const and be judged null and void.

2) How it arose?

Opposed to ascertain intention of framers. Evidence that some states had practice of judicial review — yet no article expressly declares it shall be interpreted by Courts and then alone. Art. III just vests judicial power in Sup. Ct. — Art. VI

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding".

Convention probably desired it, but no Pres. — Clear that many would have opposed ratification.

(more commentary on supposed deficiencies of written constitutions)

Settled by Marshall in Marbury v. Madison

(1803) as McCulloch v. Maryland (1819)

Marbury v. Madison - Fed Act of 1789 grants mandamus, midnight judge sues Marbury for commission, Marshall for Const limits Sup Ct to appellate jurisdiction, (Marshall welcomed opp. to both est. rule of law & political opponents)

McCulloch v. Maryland - Act of 1816 incorp. US Bank, Maryland taxes bank notes. Act valid as "implied powers" and State tax invalid.

Thus, Court, in app. to judgment of authority it creates (Cong. Power), Courts interpret Const. Courts thus superior to judgment of all other inst. including Congress.

Judges minds evolve by background. - President Vanier - Personal prejudices enter - To be expanded in context of a document with 28 Articles & 8,000 words made to fit an society at expense to serve diff. as of today. (4 million, 13 countries v. 130 million, 48 states highly indebted)

Commerce clause: "To regulate Commerce with foreign nations and among the Federal States..."

telling news; money; correspondence school; planning on railways; women in white blouse; manufactured goods not yet made; open building.

Brit - Parl., dem., elected, is ultimately ^{author} elected

US - Cong only court of 1st instance. Overrule & Sup Ct of 9 not dem. elected.

Chm of judge inst. created (Brandeis)

Central-Local Problem

State necessarily occupies a territory - How managed? - General
undividedly from single center or disintegrated, governed
by a concert of central and local authorities.

Same problem in business, trade unions, church.

Prevailing distinction is between Unitary & Federal states.

Unitary has all authority and power in a single center,
whose will and agents are legally omnipotent over
the whole area.

Federal = Part of authority & power in local area, while
part is in a central institution deliberately created
by an association of the local areas.

Federalism is modern. Starts with American of 1787.

Followed by Switzerland (1802), Canada, Germany,
Austria, ~~Spain, Italy, Japan~~

U.S. - Before 1789, 13 American colonies largely indep.
of one another. Weak apart. - But substantial
urgency in common attack of public trade
& defense vs. Indian, European claimants.

English diff. led to war with - But even after Second Cont Congress
of 1775, they were very self-conscious states and did not
want to relinquish power. - Article of Conf. had
sovereignty remain with states

Inadequate - only unanim. amend; no taxes; no com. regl.

U.S. National Power: — ① foreign and interstate commerce

② commerce with Indian tribes

③ naturalization and bankruptcy

④ currency and weights & measures

⑤ postal adm.

⑥ copyright

⑦ crimes on high seas and air, laws of piracy

⑧ foreign affairs in general

⑨ decl. of war — army & navy

⑩ decided sovereignty

Opp. to ratification based largely on belief that proposed federal agencies too powerful

Wash. & Ham. feared centralization — Jeff. withdrew for states' rights (had to punish Treason)

Trend clear particularly in North: — new govt. lands and new states; interstate migration blurring state loyalties; transport, commerce, common industry

Trend in holdovers — Effect of war is to bring centralization of power at top. — When govt. must deal with national econ. problem — large and heavy —

U.S. Judiciary helped build ① "commerce among several states"
② implied power ("Bank from Bay 1st Nat Bank", "Commerce")
③ police power (white slave, clean air, coast lands)

~~Community replace state systems~~

4) State laws. hurt by change in industry, commerce, transport
Schedules

5) Polit Parties bind together - must establish policy to
attract more than state.

4) Judiciary - Division here too bet. central and state authority
Here in U.S., states quite subordinate

U.S. Sup Ct; Circuit Courts; Appellate; & Dist Ct.

Sup. Ct. - original jurisdiction in cases affecting ambassadors,
public ministers & consuls, where a state shall be a
party. - App. final on Cong.

a) close to 100 cases of state conflicts; judg. reported -
mostly boundary; wealth conflict such as migration

b) App. = where Court is united

State Cts may deal with cases unless excluded. (can be removed)

5) Finance - Congress could tax to pay debt & provide for currency

a) defense and welfare. Few limits: taxes must be
uniform thru US; no tax on state exports; no
capitation or direct tax unless in prop. to census (date
proposed)

b) State could tax alike, except: import & export

Problem

1 - Can taxes regulate - *McCulloch v. Maryland*

2 - 0 law, - v. - *Child Labor*

Yet States held on - Senate, 2 each, - Senators not out
for special interests.

Growth of sectionalism - Upper Mid West
Political Parties - make for bond

Fundamental Federalism

1) Dist. of Leg. Power - In US, Fed authority reserved only "enumerated"
powers + necessary and proper, All other powers to States
Yet some then, central powers reserved by statute, amend,
judicial interp.
Today, "federal usurpation" - actually state power altered
version

2) Dist. of Adm. Power - Fed. authority has its own body of
agencies, acting indep. of states

Full power of adm. - Act directly on individual citizens
McCulloch v. Maryland prevents states from interfering with
federal function

Tenn v. Davis (1879) prevents states from interfering with
exercise of duties from being based on state law.
Collector v. Day - reverse, no state judges barred.

3) State Rep. in Fed. Assembly - States not solely with states
by people, want spread, key identity (1) Senate,
2) Equal vote (Sen. vote spread interests)

Yet, develop. n. state boundaries: (Committee, state dep.)

- 1) 35 new states created
- 2) fed. assist in roads, canals, highways
- 3) trans. can't be in America w/out them.

- 6) Constitutional Amendment - Limits in that no state can be
deprived of Senate rep. without consent
"Compact" ? - Nullification - Concurs. majority -
Secession

Calhoun, *Hayne v. Welles*, Sumner

- 7) Coylet rep. put that framers did not know what
① they were creating
② Assoc. changed its nature with time - did not "settle"

Federalism established presumption that the shall be no
war, that disputes shall be settled by agreement,
and that the central authority shall be especially
sensitive to the needs and claims of the local
authorities

Oscar Bills -

Separation of Power

Appeared in 17-18 cent. as part of issue of political liberty.

Developed by Montesquieu in Spirit of Law - "In every government

there are three sorts of powers: the legislative; the executive in respect of things dependent on the law of nations; and the executive in regard to matters that depend on the civil law"

and

"When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, and execute them in a tyrannical manner. Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judges would be then the legislators. Were it joined to the executive power, the judge might behave with violence and oppression. There would be an end of everything, were the same man or the same body, whether of the nobles or of the people, to exercise these three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals";

1) diff. sorts of power in govt

2) to obtain liberty power must not be concentrated.

Liberty is highest good. - Liberty is spirit of law. - Moderation

Fear abuse of power. - ^{By anyone} "To prevent this abuse, it is necessary, by a proper disposition of things, that power should be a check to power". - Besides, people must be set up, confronting each other, with the implied threat, that should any go beyond its prescribed sphere it will be challenged by the others.

As a result, there will be liberty, tranquillity of mind, security in society.

Sup. of power also imposes upon each power the need to explain itself to itself and to others.

Fallacy Amer. Const. permeated by Mont. Perry. - Amer.

Const. consciously and elaborately was made an essay in the separation of power and is today the most important policy operating on that principle.

Mar. Const. of 1780 - "In the government of this Commonwealth the legislative department shall never exercise the executive and judicial powers or either of them; the executive shall never exercise the legislative and judicial powers or either of them; the judicial shall never exercise the legislative and executive powers or either of them; to the end it may be a government of laws and not of men".

Ames, Const not so separate so that would have made
gov't impossible; - But intended checks &
balance did succeed in making gov't next to
impossible,

Madison in Federalist paper 10 told to M, "the oracle who
is always consulted and cited on this subject".

- Intend M to mean that rule of no 2/3
power to be placed in same hands.

Frame feared the rule gave in legislative too. They
might control power. (If; say, any 2 power
could bring any enactment to order. - made said it
would destroy gov't, lead to ignorant rule) -

Here mutual check on each other - Prevent
easy formation of a homogeneous or tyrannical
majority.

- 1) Leg in Cong.; Exec. in Pres.; Just in courts.
- 2) 2 Houses, Senate every 6 yrs.; House every 2.
- 3) An Exec. depend. upon neither leg. nor people. (Elected)
- 4) Pres - Senate to share power; chief official appointment
- 5) Assent of Senate in treaty-making.
- 6) Pres. may not appear or plan Congress.

Result was to destroy consent, leadership in govt; possible unity between Senate & House

Yet in 19th century, govt movement necessary. Majors instead of being detestable become necessary.

Since Constl prevented movement, it had to come from someplace else. — That came in Party system.

American Congress vs. European Cabinet system:

Cabinet = Powers coordinated, just, apparatus of execution; Exec. Cabinet is creating legislation and leads the legist

Re: Admin in US

1) Schuler - under deleg.

2) rate making

3) NLRA

4) US v. Const. H. right, enlarges who to whom it will control to power.

Postal Fraud order — speech
Washington's Compers — but by jury

Can't renew??

Branches

Clear that traditional breakdown useful but not accurate

- a) legislature makes rules beyond policy into technical
- b) exec. issues orders to secondary legislation
- c) ad. boards or judiciary
- d) courts deal with legal & admin powers

Actual govt operation calls for resolving what's to be done and then executing, carrying action,

making - Electorate, Parties, Parliament, Cabinet, Pres.

executing - Cabinet, Pres, and Secs, Courts

Electorate - uncoordinated mass - sovereign

Power limited by ignorance, moral convention, monetary resources, Constitution, institutions -

In present state certainly, without leadership & control = confusion

Party - leads & controls mass

Hopes to control policy in Parliament

For votes they need achievement

Parliament - Still in expense - Salary helps - Relative resp. not complete.

Cannot understand technical problems
Requires skilled assistance

Cabinet - Small heads - Pres as an org. Pres - In Eng. not as big, basis
Use specialists to translate; very to people

Parliament

Key function is to apply the presumed will of the people to the creation of law and supervision of admin, mandate?

member free - U.S. Const "and for any speech or debate in either house they shall not be questioned in any other place".

yet, in practice there is control & election.

JS will: "No pledges. - Full knowledge of candidates -
Reject one who differs fundamentally - freedom beyond
fundamentals - trustworthiness - ability more important than
agreement.

Reforms Political Party.

Party obtain legitimacy - search out qualities - establish justice -
make reform

I want, of course, to know how much they can do, & how much they party?

Offer reformer fellow party philosopher.

Responsibility - people make and make govt

Representatives not direct (Frank Cont. Case 7/17/9)

- a) imposed direct parties over large area & number
- b) selection similar to all people's views
- c) not all have same ability to judge capital
- d) turned at denegating one systematic period

1- Separation answers to remain dependent - power and interest

Parties help represent - help direct govt (how hinder?)

who rules? - Pop. in 1950 cent!

a) pop. more educated

b) pop. more stable

c) pop. more and more pop. (not on)

(do you know who the next 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 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618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089, 1090, 1091, 1092, 1093, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139, 1140, 1141, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1149, 1150, 1151, 1152, 1153, 1154, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 1172, 1173, 1174, 1175, 1176, 1177, 1178, 1179, 1180, 1181, 1182, 1183, 1184, 1185, 1186, 1187, 1188, 1189, 1190, 1191, 1192, 1193, 1194, 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, 1229, 1230, 1231, 1232, 1233, 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241, 1242, 1243, 1244, 1245, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1269, 1270, 1271, 1272, 1273, 1274, 1275, 1276, 1277, 1278, 1279, 1280, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291, 1292, 1293, 1294, 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1319, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327, 1328, 1329, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1340, 1341, 1342, 1343, 1344, 1345, 1346, 1347, 1348, 1349, 1350, 1351, 1352, 1353, 1354, 1355, 1356, 1357, 1358, 1359, 1360, 1361, 1362, 1363, 1364, 1365, 1366, 1367, 1368, 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1380, 1381, 1382, 1383, 1384, 1385, 1386, 1387, 1388, 1389, 1390, 1391, 1392, 1393, 1394, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1430, 1431, 1432, 1433, 1434, 1435, 1436, 1437, 1438, 1439, 1440, 1441, 1442, 1443, 1444, 1445, 1446, 1447, 1448, 1449, 1450, 1451, 1452, 1453, 1454, 1455, 1456, 1457, 1458, 1459, 1460, 1461, 1462, 1463, 1464, 1465, 1466, 1467, 1468, 1469, 1470, 1471, 1472, 1473, 1474, 1475, 1476, 1477, 1478, 1479, 1480, 1481, 1482, 1483, 1484, 1485, 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1494, 1495, 1496, 1497, 1498, 1499, 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 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