

# Psc 2302 final



" The Revolution of Sober Expectations" Year: 1975

Author: Martin Diamond

Summary: Declaration doesn't institute a particular form of government; any form is good as long as institutes equal freedom and instituted by popular consent. The abstract expectations of the American Revolution differed from those of Robespierre or Stalin because liberty was reasonable and capable of achievement. Coolheaded, didn't require mass executions, tyranny, etc.

Showed wisdom, deliberate, realistic approach of founders.

Brutus #1 Year: 1787

Author: Brutus was a pseudonym; probably Richard Yates

Summary: Antifederalist paper saying that constitution provides for an unchecked power for the federal government, so that eventually the states will be stripped of their power and not needed. A free republic of such large size cannot survive, historically. It will lead to oppression of the people and inefficiency.

If constitution plans to consolidate 13 states into 1 government, it should not be passed.

Federalist 10 Year: 1787

Author: James Madison

Summary: One of the most frequently heard complaints about our nation (and other nations) is the extreme factions that often lead to violence. A

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republic (not a democracy) can be the cure for this! The constitution established this Republic/remedy. Factions will always be present. But with a larger federal government/republic, each faction will be weaker and will therefore not have the resources to initiate significant violence.

Federalist 51 Year: 1788

Author: Madison

Summary: separation of powers! Branches can be mostly independent of each other but not absolutely.

Brutus #15 Year: 1788

Author: " Brutus" (pseudonym)

Summary: The Supreme Court has too much power, unchecked by other branches. OK to have " operation under good behavior," but no accountability for decisions of the court (as Britain had); This makes the Supreme Court way too powerful! Could abuse power and eventually get rid of state governments.

Federalist 78 Year: 1788

Author: Hamilton

Summary: Independent judicial branch is important and is, in fact, the weakest branch because they can never threaten liberty. Its permanence prevents political influence from other branches or citizens because of reelection, salary, etc.

Suggests concept of judicial review (not actually confirmed by courts until Marbury v Madison)

Marbury v Madison Year: 1803

Author of opinion: John Marshall

Summary: Midnight appointments--> Marbury wants his appointment that wasn't delivered (but was signed and sealed). Petitioned for writ of mandamus. Madison (new Secretary of State) refused to deliver appointments. Marshall states that although, Marbury deserved the appointment, the court did not have power to enforce constitutionality.

Established concept of judicial review.

Federalist 70-71 Year: 1788

Author: Hamilton

Summary: A strong, single executive is important for prompt decisions. A term of 4 years allows the president to make and enact policy choices thought best for the nation, without the influence of politics of election by congress or constituents.

Cato 4-5 Date: 1787

Author: "Cato"

Summary: Antifederalist paper; 1 year is ideal term for presidency.

Dangerous to have a vice president. The president is similar to the monarch of Britain.

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Myers v US Date: 1926

Author of opinion: Taft

Summary: Myers was an appointed postmaster, guaranteed 4 years of work. Pres Wilson fired him without senate approval. Myers sued. Court decided that it was within Pres power to fire appointed officers.

US v Nixon Date: 1974

Author of Opinion: Burger

Summary: Nixon was subpoenaed for audio recordings of Watergate. Nixon said that he had the executive privilege to keep confidential to protect national security. Court decided that in this case, he MUST abide by subpoena. In matters of national security, decision would have been different.

Jefferson's Opinion on the Constitutionality of the Bank Date: 1791

Author: Jefferson

Summary: The establishment of the Bank is not constitutional. It is not "Necessary," only "convenient." Congress cannot continue doing things that are just "convenient". Not in constitutional.

McCulloch v Maryland Date: 1819

Author: Marshall

Summary: Maryland imposed a tax on the National Bank. The bank manager refused to pay taxes. Decision: Maryland cannot tax bank.

Classical Republicanism aka Aristotlian tradition

" A human being is by nature a political animal"

humans are born with opinions (can think about justice, goodness, etc)

Citizenship= subordination of private interest to the common good of political community.

Purpose of political community: education about moral responsibilities

English Constitutionalism History/tradition provides moral standards

unwritten constitution/common law tradition

- ex. Parliamentary sovereignty, magna carta, Writ of Habeus Corpus, " The Rights of Englishmen"

Natural Rights/State of Nature/Social Contract Influence by Hobbes and Locke

born with natural rights to freedom and equality (no ruler in nature, so born free)

Social Contract= sign away some personal rights of nature in order to establish a common power, so that society is ordered

When natural rights are not being met, disobedience of government is justified

Virginia Plan Nat. Legislature:

- bicameral
- proportional representation

Exec:

- selected by congress
- one term limit

Judiciary:

- tenure of good behavior
- fixed compensation

Other:

- national veto of state laws

Author: JAMES MADISON

New Jersey Plan Reform Articles of Confederation

- more leg. powers to congress
- committee for exec branch
- add national judiciary

Minor changes

Hamilton Plan The British Model

- VERY powerful federal government

(could have been strategic in posing such a radical form of government, so that the Virginia plan seemed more reasonable)

The Great Compromise July 16, 1787 @ Constitutional Convention

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- senate has equal representation
- house has proportional representation

3/5 Clause compromise of southern states and northern states over whether slaves would be included in calculations for representation in congress and taxation

Agreed that would count as 3/5

actually never used term "slavery" because didn't want to legitimize the idea that person could be property

Articles of Confederation 1781-1789

Institutional Problems

- no separation of powers
- states nearly sovereign

Consequences:

- congress almost went bankrupt/no power to tax
- no enforcement powers
- no authority to regulate commerce

Article III very short; regarding judicial branch/supreme and inferior courts

appellate vs original jurisdiction

Article II EXECUTIVE BRANCH

vested in president of USA



term of 4 years, alongside VP

includes powers of president, requirements to become president

Article I LEG. BRANCH Article VI supremacy clause: state courts are bound by federal courts

ex. McCulloch v Maryland

10th Amendment Any power not given to the federal government is given to the people

some see it as pointless, because Supreme Court has rarely had to use it for decisions.

Extended Republic Principle Federalist 10- James Madison

we can still control faction with a large republic; each faction will be weaker.

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