THE MONOLITH: WE THE PEOPLE STUDY GUIDE

INTRODUCTION:
Okay, so here goes. I’m leaving out everything we’ve covered already - up to the nitty-gritty of the Constitution proper, as experienced on the most recent test - because of the time crunch and the fact that you all probably know what you’re doing already. If needed, I’ll attach scans of my tests (bad grades included) for your educational benefit. Enjoy, and good luck!

-A

UNIT ONE
Lesson 1: What did the Founders think about Constitutional government?
Lesson 2: What ideas about civic life informed the founding generation?
Lesson 3: What historical developments influenced modern ideas of individual rights?
Lesson 4: What were the British origins of American Constitutionalism?
Lesson 5: What basic ideas about rights and Constitutional government did colonial Americans hold?
Lesson 6: Why did American colonists want to free themselves from Great Britain?
Lesson 7: What basic ideas about government and rights did the state Constitutions include?

UNIT TWO:
Lesson 8: What were the Articles of Confederation, and why did some Founders want to change them?
Lesson 9: How was the Philadelphia Convention organized?
Lesson 10: Why was representation a major issue at the Philadelphia Convention?
Lesson 11: What questions did the Framers consider in designing the three branches of the National Government?
Lesson 12: How did the delegates distribute powers between National and State Governments?
Lesson 13: What was the Anti-Federalist Position in the debate about ratification?
Lesson 14: What was the Federalist Position in the debate about ratification?

Just keep these in mind, review old work, etc. etc. I don’t think you intelligent young fellows need me to tell you everything that you already know right now – they’ll be added in the future, when the guide is provided to the rest of the class and all classes following.

UNIT THREE

LESSON 15: HOW HAVE AMENDMENTS AND JUDICIAL REVIEW CHANGED THE CONSTITUTION?

LESSON 16: WHAT IS THE ROLE OF POLITICAL PARTIES IN THE CONSTITUTIONAL SYSTEM?
Lesson 17: How did the Civil War test and transform the American Constitutional system?

Lesson 18: How has the due process clause of the Fourteenth Amendment changed the Constitution?

Lesson 19: How has the equal protection clause of the Fourteenth Amendment changed the Constitution?

Lesson 20: How has the right to vote been expanded since the adoption of the Constitution?

Unit Four

Lesson 21: What is the role of Congress in American Constitutional democracy?

- Differences from British Parliament:
  - Representation: MPs elected locally, House of Lords is usually given honorary life peerage and serves as final court of appeal for civil cases and criminal cases in N. Ireland, Wales, England.
    - United States: everyone is now elected, even senators. Senators given a longer term, meant to rep. entire state.
  - Separation of powers: close link btw. exec and legislative. Elections endorse a party platform – leader becomes PM, acts as chief exec and chief legislative officer. Unified government!
    - United States: Congress is one of three, coequal branches designed to check and balance the other two. Unlike the House of Commons, which dominates Parliament, Congress cannot dominate nor be internally dominated.
  - Term length: HoC elections can occur at any interval within the 5-year window specified. Votes can be held sooner to cement a party majority or to replace an unpopular PM as a result of a vote of no confidence.
    - US: elections occur on a specified schedule no matter what. If anyone dies, a selector is either lined up or appointed, not elected.
  - Federalism: unique to the US, in which central power is split btw national and state level. In Britain, devolution reigns – local gov’t is just an administrative unit of national gov’t.

- Congress’ powers:
  - Limitations/Negative grants:
    - Article I, Section viii: legislative powers limited to "those herein granted," with exception of elastic clause.
    - I.ix: matters over which Congress has no jurisdiction, i.e. state exports, titles of nobility, draw money from Treasury unless specified in legislation.
    - Bill of Rights: all of the govt’s negative rights.
  - Positive grants:
    - Enumerated powers (I.viii), included the much-extended “interstate commerce” clause.
      - II: Senate must conference with President on appointments to positions and treaties.
      - III: Congress controls all courts lower than the Supreme Court
      - IV: Congress can admit new states, pass laws governing nation
      - V: Congress can propose amendments.
    - Implied powers: usually granted via the necessary and proper clause.
• Congressional oversight: supervising offices created, even when they fall under other branches.
  ▪ Enforcement powers: Amendments 13, 14, 15, 19, 23, 24, 26 give power to enforce by appropriate legislation.
    ▪ Often combined with interstate commerce clause to justify legislation.
  ▪ Inherent powers: not expressed, but taken for granted by the fact that Congress is, in fact, a branch of gov’t.
✓ Congress’ representation limited in l.ii to one rep per 30K, but after controversies pre-1842 about electing reps @ large, states were divided into as many districts as there were representatives.
  o Districting controversy: highlighted by Wesberry v. Sanders (1964), resulting in “one person, one vote” rule. Lines must be redrawn after every 10yr census.
    ▪ Gerrymandering: redrawing lines to favor a political party. Only applies to reps – 2 senators per state, so it doesn’t matter about them, even w/ Amendment 17.
    ▪ 1913: House limited to 435 reps; 1959: Senate limited to 100. Now, 100K+ per electoral district, in addition to commissioners from D.C. and all territories.
✓ Theories of representation:
  o Delegate: mirror constituents views (Anti-Federalist)
  o Trustee: gain trust, then serve their best interests thru policy (Federalist)
✓ Means of serving the constituents – even as trustees, they have to keep in touch!
  o Communication: need to keep constituents informed, and keep informed of constituents.
  o Casework: helping constituents who have problems w/ national gov’t or doing favors for constituents. Done by Congressional staffers both locally and in Washington
  o Serving interests and concerns: not only representing state concerns, but bringing economic benefits to the states and located federal projects instate.

**LESSON 22: HOW DOES CONGRESS PERFORM ITS FUNCTIONS IN THE AMERICAN CONSTITUTIONAL SYSTEM?**

✓ Congressional procedure: can only be dictated by each house (l.v); set by the first Congress (1789-91)
  1. Committee: several permanent committees exist, which can created subcommittees at will.
    ▪ Hearings held by these groups to get information out of individuals of interest to them.
      ▪ Oversight hearings conducted of federal officials to see how they are implementing legislation.
    ▪ Select committees and task forces created temporarily for special issues.
    ▪ Committee members can conduct business on their own for the interest of their assignments and committee business.
  2. Rules: adopted by each session of Congress; specify size and jurisdiction of committees, i.e. what bills come before each committee.
    ▪ For important bills, majority-led Rules Committee can create special rules, and can specify general intra-committee procedure.
    ▪ Senate rules: less formal than in the House, due to ambassador nature of senators.
      ▪ Filibuster: refusal to surrender the floor during debate to stall passage of a bill.
      ▪ 1917: measure adopted for a 60-man closure vote, which immediately starts debate.
  3. Party loyalty promoted by appointing reps/senators to committees based on seniority and adherence to the party line. Chairs limited to 3 two-year terms.
✓ Leadership: members “shall choose their speaker and other officers”
  1. House:
    ▪ Speaker: control committee appointments, chair the Rules Committee, 4th in presidential succession line. Tight control over agenda, &c
Decentralized committee leadership: committee chairs and their committees compete, instead of overarching leadership amongst the reps
- Party control: Speaker represents the majority party more than the institution of the House itself.

2. Senate: less centralized. According to the Constitution, VP is Prez of the Senate, but in reality he is not a member and is often not a member of the majority party. His only power is the tie-breaker vote. Instead, majority/minority leaders elected by respective parties.

1/10 proposals actually become laws, rarely without significant changes. Can be in the form of bills or resolutions (addressing rules, expressing sentiments, or vehicle for amendment proposal [if a joint amendment between both houses]). Joint resolutions have the force of law if signed by a president. Process:
1. Committee assignment: at least one. Subcommittees usually involved, sponsors must compromise on content.
2. Hearings: usually public. Testimony can be presented by anyone, including gov’t orgs.
3. Deliberations: aka mark-up sessions, in which reps/senators review, discuss, and propose changes to the bill, then approve it and send it to vote.
   - Subcommittee bills referred to full committees prior to general vote.
4. Report: committee-approved amendments referred to the assembly with or without amendments, and explanations of choices.
5. Floor vote: duh, obvious.
6. Referral to other chamber: proposals can be defeated, amended, or approved when they go to other chamber of Congress.
7. Conference committee: when amendments between chambers differ, CC made up of members of both is formed to reach compromise. Report is then submitted without the possibility for amendment.
8. Referral to president: can be passed or vetoed, with chance for 2/3 override in both chambers.
   - If bill not signed within 10 days and Congress adjourns, bill is dead. (pocket veto)

Majority support must be won at each stage, as well as the approval of party heads. Compromise is necessary if a bill is to survive.

Sources of info on decisions include Library of Congress, thru Congressional Research Service; Congressional Budget Office keeps Congress apprised of budgetary implications of bills.
Sources of ideas:
- Executive branch: II.i.ii instructs prez to give State of the Union address, and recommend to Congress “such Measures as he shall judge necessary and expedient.” Usually gets party support.
  - Exec. Offices and agencies also fall under this purview, with ideas focusing on improving departmental function.
- Constituents: recommendations for new laws or requests for repeal of existing ones. Can be national, local, or personal issues.
- Interest groups: aka lobbyists, trying to affect legislation on behalf of organizations, industries, or just public interest. Lobbying Disclosure Act of 1996 requires lobbyists to disclose interests represented, interests in which they are interested, and annual expenditures. No limits on amount of lobbying. Must be:
  - Well-informed – reliable info for congressmen.
  - Knowledgeable – about both their issues and the legislative process.
  - Organized – no screwing around; must be efficient!
  - Cooperative – must compromise w/ other groups and with congressmen

Congress has power to investigate, as have most historical legislatures. Purposes:
- Finding facts on which to base legislation
- Discovering/influencing public opinion
- Overseeing administrative agencies
- Probing questionable activities of public officials
- Securing partisan gains

20th century saw full use of this power; i.e. labor investigation resulting in labor legislation in 1930s, special investigative commissions such as for Challenger disaster and on 9/11.

Impeachment proceedings may by initiated by any member of the House in the form of a resolution, to then be referred
to the committee responsible for the branch in question. Committee then reports “article of impeachment” to the full House. Successful impeachments:

- Andrew Johnson and Bill Clinton (both acquitted)
- SecWar William Belknap (acquitted after resignation)
- Sen. William Blount (charges dismissed after Senate expulsion)
- 13 federal judges: seven guilty, four acquitted, two resigned including Samuel Chase

**Lesson 23: What is the role of the President in the American Constitutional System?**

- Listed powers of the Executive:
  - Commanding army/navy as commander in chief
  - Heading exec. Department (cabinet, agencies, &c)
  - Granting reprieves and pardons
  - Making treaties (w/ advice/consent of Senate)
  - Nominating ministers/officials/ambassadors/judges/justices
  - Recommending legislation
  - Reviewing legislation and passing/vetoing
  - Receiving foreign dignitaries – chief diplomat

Prez directed to “take Care that the Laws be faithfully executed”; “preserve, protect, and defend the Constitution”

- Founders’ vision of the presidency: not involved in partisan politics. Publius: president to be a person who has earned the public trust, with a character “preeminent for ability and virtue” – original intent of the Electoral College.
  - Rise of the modern, powerful president: Andrew Jackson. Liberal usage of veto power, not only for unconstitutionality but also for personal opinion reasons.
    - Lincoln was a pioneer of executive initiative and power-grabbin’: habeas corpus suspension, Emancipation Proclamation, etc. Logic: “inherent executive power”; most actions eventually authorized by Congress.
    - Roosevelt: shaped public discussion with usage of presidency as “bully pulpit”
      - Wilson: did the same.
    - FDR: used crises to consolidate federal/executive power; submitted New Deal policy directly to Congress; opinion polls andfireside chats connected him directly to the people.

- President’s official role in foreign policy: limited by Congress’ power of the purse, declaration of war, commerce regulation, etc. Also makes military rules!
  - Commanding the armed forces as commander in chief, including extensions of this power to foreign conflict w/o declarations of war.
  - Making treaties w/ other nations and international orgs. Must be approved by a 2/3 vote in the senate – kept some treaties like Treaty of Versailles from being ratified.
  - Appointing ambassadors and councils, subject to Senate majority vote.
  - Chief diplomat (receiving ambassadors, public ministers), as established by Jefferson
  - **Expansions:**
    - Done in cases of immediate national threat, i.e. FDR giving ships to UK during WWII. SC/Congress can still declare actions unconstitutional, however; i.e. Dubya with military tribunals for terrorists.
    - Historical progression of power toward the presidency has mostly occurred in the 20th century. Mostly due to an American expectation of a vigorous, active executive.
      - Also: little constitutional proscription of power.
      - Also: growth in president’s role in recommending legislation, as part of his increased integration into his party and the catering to the national constituency.
      - Also: executive orders on the rise, as legislature leaves details to exec.
      - Finally: increase as part and parcel of transfer of authority to federal gov’t
President’s power is strictly checked, i.e. by Amendment 22 (term limits)
  - Legislative checks:
    - Rejecting/unacceptably modifying legislative agenda
    - Asserting constitutional authority (1973 War Powers Resolution)
    - Refusal to ratify treaties (1996 nuke test ban treaty, still unratified)
    - Refusal to confirm presidential appointees to high-up posts
    - Refusal of funds
    - Removing of president from office using impeachment proceedings
  - Judicial checks:
    - *Humphrey’s Executor v. United States* 1935: Congress must approve removal of an official
    - *United States v. Nixon* 1974: President not entitled to legal immunity
    - *Train v. City of New York* 1975: President cannot refuse to spend Congressionally-appropriated money.
  - Executive checks: agencies can establish procedure, tradition that outlives a president. Advisors can use personal capital to resist presidential agenda.
  - Public opinion is the fourth, theoretically largest check (so much for that @ Dubya). Without public support, pres can’t do anything.

**Difference between president and prime minister:**
  - PM: majority party appointee; prez: popular election.
  - PM: necessarily an MP; prez: not so!
  - Parliamentary: legislative and executive integrated to make things more efficient; prez: separated to make each more equitable and accountable.
  - PM: can be empowered/removed immediately by a fickle Parliament; prez: subject to Congressional deliberation.

**Main point:** Presidents gain power in spite of their Constitutional limitations through sheer force of personality and will.

**Lesson 24: How are national laws administered in the American Constitutional system?**

**Administrative Units:**
  - Executive departments: within exec branch. Currently 15, i.e. Departments of Defense and Justice (both combined from previous units) and D. of Health and Human Services (split from previous units)
  - Executive Office of the President: administrative machinery for effective legislating and wielding of exec power. Some use it for advice, others to influence bureaucracy.
  - Independent agencies: created by Congress outside of exec purview. Most deal w/ constitutionality or specific areas of interest.
    - **Agencies can always be shifted around/recategorized.**

**Units exercise quasi-legislative powers, due to vagaries of official legislation, as well as quasi-judicial power by holding hearings for parties claiming damages from these units.**
  - 1946 Administrative Procedure Act: guidelines for making rules that implement laws, i.e. requiring public notice and hearing.

**Units frequently created due to increasing demands placed upon the national government. As broader focus of national policy shifts, i.e. with New Deal, units may be created to deal with specific problems.**
  - Recently, due to political conservatism, much of the bureaucratic fat is in the process of being cut, or being transferred back to the states.

**Units staffed thru a merit/civil service program in lieu of patronage after Garfield was killed by a disappointed office-seeker.**
  - Congress establishes rules and protections regarding employment, i.e. whistleblower protection.
  - 1939 Hatch Act: Prohibited parties from pressuring employees to do political work as a condition of continued employment.
    - 1993 Hatch Act Reform Amendments: encouraged civil servants to participate in politics.
- Title 5 of the United States Code: governs merit principle, but increasing numbers of jobs are being exempt from this.
- Presidential appointees usually end up in powerful places in order to lubricate the bureaucracy, and often lose their jobs with a change in administration.

- Checks and balances on administrative agencies:
  - Executive: president can reward loyalists, advance agenda with appointments, conditional upon policy support. Executive orders direct actions of administrative units.
  - Legislative: Creation, consolidation, and elimination of agencies. High-level appointees must be Senate confirmed. Money must be approved by Congress. Congressional oversight committees keep close tabs on their inner workings. Congressional veto has lived on in the form of resolutions despite ban in 1893.
  - Judicial: decides whether agencies violate 14th Amendment due process/equal protection clauses. Determines whether Congress has given too much legislative authority – must clearly identify standards which agencies must meet.
  - Federalism: bureaucrats can encounter major resistance if national and state/local policies are disparate.
  - The public: those who are affected by policy are often the most vocal critics, and interest groups are always hawkish.

**LESSON 25: WHAT IS THE ROLE OF THE SUPREME COURT IN THE AMERICAN CONSTITUTIONAL SYSTEM?**

- Article III: creates SC, gives Congress authority for lower courts, gives federal judges life tenure and gives federal courts only a certain jurisdiction (cases under national laws and involving citizens from more than one state), guarantees trial by jury for everything but impeachment. SC also exercises judicial review power.
  - Original jurisdiction: court passes judgement on facts of case and the law. Definition: “ambassadors, other public ministers and consuls, and controversies to which the US shall be a party.” Only court to hear the case, and Congress cannot change this definition.
  - Appellate jurisdiction: power to review and revise decision of a lower court.
    - Judiciary Act of 1789 created 3 levels: trial/federal district courts; appellate/federal circuit courts; Supreme Court. Congress debates the lines for SC rulings.
    - Litigants may petition for writ of certiorari, which SC is not required to give. If enough disagreement exists on the Court, it will request the lower court to send case records up.
      - Many cases only request interpretation of the meaning of legislation, not the constitutionality.

- Procedure for disagreement with legislation: Marshall set precedent for court to issue only majority, concurring, and dissenting opinions instead of one per judge; they keep the court accountable by publishing a record of deliberations.
  - Methods of interpretation:
    - Textualism, literalism, strict construction: looking at exact text of the Constitution and giving everything an ordinary meaning. Pro: keeps SC neutral, avoids judicial activism, keeps meaning of the law predictable.
    - Original intent/history: addresses the question of how to interpret unclear language. Justices seek to understand what the Founders intended. Pro: keeps law stable, neutral.
    - Fundamental principles: uses philosophies of government to interpret unclear language. Pro: keeps law philosophically constant.
    - Modernism, instrumentalism: operates on premise that Constitution should be interpreted for changing circumstances and needs. Pro: avoids excessive amendments to keep things current, promotes social progress.

- Checks and balances:
  - Self-imposed limits: tradition of refusal to decide questions more appropriate for other branches, and only dealing in cases of controversy without advisory opinions (about how laws should be interpreted, unless such an opinion is expressly called for)
  - Executive:
- Presidential appointments
- Executive enforcement of judicial decisions
  - Legislative; Congress controls appellate jurisdiction and budget for SC. Congress can pass further legislation even if something is declared unconstitutional. Can alter size of the Court, and alter meeting times or suspend them altogether. Can proffer amendments to invalidate disagreeable SC decisions.
  - Federalism: states are responsible for enforcement of rulings, and that execution is entirely at their mercy.

**Lesson 26: How Does American Federalism Work?**

- After the Revolution, the states were the only remaining legal entities; Constitution created a national government, but reserved many gov’t powers for the states. Madison, Fed. 45: powers would “extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.”
  - Important role in the federal gov’t procedure, i.e. Article VII (ratification)
  - Proscription of powers in I.x implies that all things not prohibited can be done; ditto on Amendment 10.
  - Reserved powers = police powers (protecting health, safety, welfare, and morals of those w/i jurisdiction.
    - Checked by the supremacy clause, Article VI.
- State government organization:
  - Bill of rights: with a preamble declaring that the purpose of government is to protect those rights.
  - Three branches of government:
    - Legislature/assembly: some annual, some biennial; most bicameral, Nebraska unicameral; both houses based upon population, not geography; legislation deals mostly with petty issues, like speed limits and licensing.
    - Executive (governor): serve 2/4 year terms and can be reelected at least once; employ a lieutenant governor, much like VP in role; huge amount of employment in state governments.
    - Judicial: trial and appellate courts, frequently with elected judges; some specialized courts, like justice-of-the-peace and municipal courts; state court of last resort/state supreme court has the final say over the state constitution.
  - Power of creation of local governments given to legislatures: give local gov’ts charters which grant them a wide range of responsibilities. Laws = ordinances, most officials are elected. Three categories:
    - Counties: large geographic areas; functions like recordkeeping, elections, civil engineering, public maintenance. 2004: 3034 counties.
    - Municipalities: cities and townships; provide public service, water and sewer, zoning and building code enforcement, hospital, libraries, and public works. 2002: 35933 municipalities.
    - Special districts: independently operated from other local gov’ts; deal with specialized services, like schools, conservation, fire protection, libraries, transportation, cemeteries, emergency services. 2004: 13506 school districts and 35052 other special districts.
- State constitutional conventions have resulted in the adoption of 144 new state constitutions. 18/50 still use the original. Huge number of amendments, often enacted thru the initiative process. Usually, amendments are policy stances on national issues, like abortion and gay marriage.
  - Average length: 26000 words.
- Federalism in practice:
  - Regulation of commerce: within borders, it is a state responsibility. SC occasionally rules in favor of national gov’t in disputes, such as in 2005 with Gonzalez v. Raich (Congressional authority to regulate interstate drug market). Resulted in state statutes staying in place, but individuals subject to federal drug enforcement.
  - Grant-in-aid programs: practice of Congress giving states money for intrastate projects. 1935 Social Security Act: made funds available only if states kept with federal policy and rules. Continues today with speed limits, No Child Left Behind, etc.
- States often act as political laboratory environments. Examples:
  - Initiative, referendum, recall: allows direct democracy thru voting on state issues.
    - Initiative: 24 states.
• Direct: individual/group grants a law/amendment, petitions for it to be on the ballot.
  • Indirect: proposals go to legislature, then onto the ballot if rejected or not decided upon.
    ▪ Referendum: placing legislature-approved measure on the ballot for popular vote. Can be done by
default or by petition. 24 states.
    ▪ Recall: process of removing elected officials from office. Used in 18 states, mostly at local level.
      o Environmental protection: many states have independently implemented the Kyoto Accords as best they can,
        and California was the first to cap greenhouse gas emissions.
      o Health care: many states have adopted health care measures for those with lower incomes in the absence of a
        federal program.

UNIT FIVE

LESSON 27: WHAT ARE BILLS OF RIGHTS AND WHAT KINDS OF RIGHTS DOES THE US BILL OF RIGHTS
PROTECT?

❖ Struggle for rights of the people is timeless. Evidence: Magna Carta, dating from 1215. Also, English Bill of Rights from
1689: lists rights of individuals and groups in relation to gov’t – freedom of speech and debate in parliament,
pettingition the Crown, prohibition of standing army in peacetime, legitimacy of rule of law, and right to
representation.
Influenced Virginia Declaration of Rights of June 1776. Breakdown:
  o Sec. 1: All men are free and independent, and have rights that can’t be touched by government.
  o Sec. 2: Power is of, by, and for the people.
  o Sec. 3: Government is meant for the common benefit, protection, and security of the people.
  o Next fourteen: explain representative government structure, place limits on gov’t, identifies particular rights.
  o Sec. 15: For maintenance of government, classical republican ideals must be retained and practiced.
Lack of BoR used by Anti-Federalists in justification of objection to Constitution.

❖ Who holds rights?
  o Individuals: reflects belief that humans are autonomous and self-governing. Originates in natural rights
    philosophy, as shown in Declaration of Independence.
  o Classes/categories of individuals: can be recognized as having certain rights, i.e. professionals, children,
veterans, etc.
  o Institutions

❖ Categories of rights:
  o Personal rights: provide for individual autonomy, including the god-given/natural laws. Gov’t must protect!
  o Economic rights: the right to choose the work you want to do, acquire/dispose of property, create and protect
    intellectual property, and protect labor unions/professional orgs. Associated with ownership/property.
  o Political rights: address political participation, and can be enforced by laws and/or constitutions.

❖ Positive vs. negative rights:
  o Positive rights require gov’t to act in certain ways, i.e. protecting citizens and occasionally providing services.
    ▪ Includes 6th Amendment (speedy public trial), 7th Amendment (jury trial)
  o Negative rights restrict government action.

❖ Rights protected by the bill of rights: mix of positive and negative.
  o 9th Amendment: several theories.
    ▪ Simply an admission that there are too many rights/liberties to list.
    ▪ Confirms that the bill of rights doesn’t increase national gov’t power in areas outside the first eight
      amendments.
    ▪ Commands judges/Congress to affirm rights not mentioned in the Constitution.
  o 10TH: several more!
    ▪ States the nature of American federalism, and that’s it
    ▪ Protects state power from federal power
Rights in the body of the Constitution: the entire thing! Hamilton, Fed 84: whole thing aimed at preventing abuses as seen under the British system.
Attitudes toward Bill of Rights: initially negative, as it was only a consolation for the Anti-Feds, and didn’t give them a chance to rewrite the Constitution.
  o 1833, *Barron v. Baltimore*: BoR applied only to national gov’t; invalidated by the 14th Amendment and others.
  o Now: hugely important! Still, a lot of misconceptions and lack of knowledge.

LESSON 28: HOW DOES THE FIRST AMENDMENT AFFECT THE ESTABLISHMENT AND FREE EXERCISE OF RELIGION?

Despite religious struggles, most European nations enjoyed the security of an established church. Even continued into the early colonies.
  o Roger Williams was expelled in 1636 from MA Bay Colony due to religious dissent; founded a new colony based on freedom of conscience, religious toleration, and the separation of church and state.
Constitution prohibits the establishment of an official religion, despite prevailing public opinion that religion was necessary for the formation of morals, because of Madison’s belief in freedom.
  o Establishment clause: prohibits establishment of national religion. 1947: SC ruled that due process clause forbid putting prayer, Bible study in schools (*Everson v. BoE*) Interpretations:
    ▪ Broad: prevents gov’t from providing any aid to religion or religious organization, but can provide assistance for people to practice their religion, i.e. school holidays.
    ▪ Narrow: prevents preferential treatment of one religion, but aid is still generally permitted if done impartially.
    ▪ Literal: prevents only the establishment of a religion; gov’t can still participate in religious matters.
  o Free exercise clause: divided into the freedom to believe and the freedom to practice religious beliefs. The former is unquestionable, but the latter can be limited to protect other important values and interests.
Balance of freedom against the greater good/societal interest: often the question of affecting an individual (government stays out) or a group (gov’t steps in). Court asks gov’t if there is a compelling state interest for intervention. Two questions:
  o Is the law in question neutral and does it apply to everyone equally?
  o If not, was there a compelling interest in enacting it, and were the least restrictive means used?
  o Two cases:
    ▪ *Smith v. Oregon* (1990): Native Americans wanted to use peyote, state law forbade it. Law stood, because it was a neutral law.
    ▪ *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah* (1993): law against slaughter of animals in ceremonies, challenged by a church of Santeria. Law struck down because it didn’t apply to everyone and there was no compelling interest.

LESSON 29: HOW DOES THE FIRST AMENDMENT PROTECT FREE EXPRESSION?

First Amendment designed to protect not only the rights of individuals from the gov’t, but the rights of the minority from the majority. Benefits:
  o Freedom of expression promotes individual growth and human dignity.
  o Freedom of expression is important for the advancement of knowledge. John Stuart Mill: progress is possible only when all points of view can be expressed and considered.
  o Freedom of expression is a necessary part of representative government.
  o Freedom of expression is vital to bringing about peaceful social change.
  o Freedom of expression is essential for protection of all individual rights.
Prior to American government: speech subjected to the seditious libel (injurious to gov’t reputation) law, and laws regarding libel toward individuals, indecency, and blasphemy. However, First Amendment passed to ensure that no laws would be passed that tried to extend gov’t authority into these matters.
1735: John Peter Zenger’s trial, in which the British judges stated that truth was not an effective defense against seditious libel.

As time has shown, attempts are still made, i.e. Civil War era, McCarthyism, etc.

How can gov’t limit expression?

- Laws may not discriminate unfairly on the basis of the content of the expression or the speaker, with the exception of extremely sensitive matters.
- Time, place, and manner restrictions must be content-neutral and applied fairly
- Regulations on expression cannot be vague (no excess power)
- Regulations must not be overly broad and must be implemented by the least restrictive means

Wars and emergencies are notable potential exceptions to free speech and press. However, *Brandenburg v. Ohio* (1969) ruled that it could only be prohibited in cases of “inciting or producing imminent lawless action”

### Lesson 30: How Does the First Amendment Protect Freedom to Assemble, Petition, and Associate?

- In addition to the right to petition and associate, the courts have recognized a right to associate with others who share opinions. Origins lay in English system – only reason to assemble was to petition the gov’t. Now included in all but two of the state constitutions.
  - At one point, the House passed a gag rule on petitions for the abolition of slavery! And Hoover kicked the Bonus Army off of Washington grounds.
  - Right to petition is frequently used as a cheap substitute for advertising, and extends to all manner of communication.

Limitations: 1939 *Hague v. Congress of Industrial Organization* ruled that people have the right to assemble in a public forum, but that gov’t is responsible for ensuring peace, safety, and a minimum of inconvenience. Time place and manner restrictions justified when:

- The gov’t identifies a legitimate interest and does not impose the limit with the intent of suppressing free speech or assembly.
- The restriction is precisely worded and applied in a nondiscriminatory manner.

- The right to associate is protected in cases protecting private clubs and organizations, such as in *NAACP v. Alabama* (1958) which prohibited Alabama from asking for the NAACP membership list. However, *Barenblatt v. United States* (1959) ruled that the Communist Party rosters could be requested since it was an organization advocating the overthrow of the gov’t. Normally, privacy rules stand, but exceptions include:
  - Huge, diversely-purposed organizations like the Rotary Club
  - Private clubs that act in the same vein as restaurants
  - Organizations in which members do not pay their own dues

Conflict of ideals between eliminating discrimination and the right to living free of gov’t interference!

Alexis de Tocqueville believed that this right was essential for preserving free gov’t in the US, given its history of equality.

### Lesson 31: How Do the Fourth and Fifth Amendments Protect Against Unreasonable Law Enforcement Procedures?

- British system gave us prohibition of general warrants/writs of assistance for search and seizure. Still, they were occasionally permitted against particularly undesirable groups. Used in the colonies when colonists were suspected of flagrant violations of the law, such as smuggling.
  - Resulted in the Fourth Amendment, whose provisions included:
    - Prohibition of general warrants
    - Applications for warrants must be supported by probably cause
    - Requires judge/magistrate to authorize warrant
    - Requires applications specifically describe place and item of search
• **Implied: the right to privacy from a certain degree of government intrusion!**
  - Warrants require affidavit to be submitted to a judge. Probable cause means that there is enough evidence for a reasonable person to believe that it is likely that an illegal act is being/has been committed.
    - Exceptions occur when officers witness a crime in progress and must step in and act. Also, some occasions exist where warrants are never required, such as inspecting a vessel’s documentation or if a person consents to search.
  - Exclusionary rule: prevents the government from using evidence obtained from a search that was not specified in the warrant (1914, *Weeks v. United States*). 1961: extended to states with *Mapp v. Ohio*.
    - Modifications: if gov’t officials relied in good faith on a defective warrant, illegally obtained evidence can be presented. Also, inevitable discovery rule: if it would have been seen anyway, it’s admissible.
    - Alternatives to the exclusionary rule:
      - Departmental discipline: simply goes after the officer in question.
      - Civilian review boards: review and supervise local police forces, and can suggest punishment or criminal charges for the offending officers.
      - Civil suits: violated individuals can sue officers or agencies in civil court or under the Civil Rights Act of 1964.
  - Warrants are not required in a school environment, as school officials are guardians of students. Justified with specific facts and a reasonable relation in scope to the circumstances justifying it.
    - Reasonableness standard also applied to random drug tests for public/transportation employees and students in extracurricular activities as well as searches of homes of those under probation.
  - Purpose of the right against self-incrimination: can only be suspended with use immunity (guarantee that evidence will never be used in criminal prosecution); sourced from Latin *nemo tenetur seipsum accusare* (no man is bound to accuse himself). Recognizes that gov’t has the burden of proof, and applies in all arenas where self-incrimination in a criminal sense is possible.
    - If police violate *Miranda* rule and suspect incriminates himself, then the statements are usually excluded.
      - *Miranda* rule: people must be informed of their right against self-incrimination when arrested (*Miranda v. Arizona*, 1966). They have the right to remain silent; the right to have an attorney with them during questioning; anything they say is evidence in court; if they can’t afford an attorney, one will be appointed.
      - *Dickerson v. United States*, 2000: Miranda can’t be overturned, as it is a constitutional decision.

**Lesson 32: How do the Fifth, Sixth, and Eighth Amendments Protect Rights Within the Judicial System?**

- Fundamental principle of the judicial system: innocent until proven guilty.
- Pre-trial rights: extensive! Judges rule on pretrial motions, sides gather evidence, interview witnesses, and criminal defendants can enter into a plea agreement. Protections:
  - 5th Amendment requires prosecution to issue an indictment so that the defense can prepare. Also states that they must be conducted by a grand jury (body of individuals that decide whether it is strong enough to proceed to trial, aka issue a true bill), or in state courts, a preliminary hearing or indictment by information.
  - 8th Amendment prohibits the judge from requiring excessive bail; doesn’t require bail to be offered, as some criminals are too dangerous or unreliable to be trusted with freedom.
  - 6th Amendment guarantees right to counsel (presence of a lawyer) during all stages of the trial. *Gideon v. Wainwright*, 1963, requires gov’t to provide counsel when defendant cannot afford it.
    - Adversary system practically requires lawyers due to the complexity of criminal law. Rights have been interpreted to mean that every person accused of a felony may have a lawyer and that all too poor to hire a lawyer can have one appointed by the court.
- Trial rights:
  - Speedy, public trial: prohibits gov’t from holding defendant indefinitely, and prevents courts being used as agents of persecution. Trials can be closed if press/public presence would turn the affair into a circus.
Right to counsel: all are entitled to a lawyer if they risk loss of life or liberty. Right can be waived if done informed, intelligently, and voluntarily.

Compulsory process and confrontation: defendants can request the prosecution’s witnesses for cross-examination.

Trial by an impartial jury in the state and district where the crime was committed: protects against unfounded charges and biased, complacent, or eccentric justices. Reflects trust in communities to do things properly.

Questions raised by the right to a jury trial:
- Is it really necessary in some cases, due to expense? Not required for petty offenses, i.e. <6 months in jail.
- Must all juries have twelve jurors? Has been dropped to six for non-death penalty cases.
- Does proof beyond a reasonable doubt require a criminal jury to be unanimous? Again, has been permitted for non-death penalty cases. Unanimity required for greater convictions or smaller juries.
- Who is qualified to serve on a jury? No gender/race discrimination.

Post-trial rights:
- Right against double jeopardy, except for the same offense in both state and federal court when both sets of laws were violated.
- No excessive fines: equal protection clause used as a criterion.
- No cruel and unusual punishment: dignity basis, not death basis. Removal of citizenship falls under this (*Tort v. Dulles*, 1958)

## UNIT SIX

### LESSON 33: WHAT DOES IT MEAN TO BE A CITIZEN?

Citizenship: the rights and responsibilities of people who owe allegiance to a particular government and are entitled to that government’s protection.

- Covenant theory and republicanism date from the colonial days.
- Natural rights philosophy: stresses individual rights and self-interest; communities protect their residents.
- Republicanism not so easy to adapt to geographical vastness of America.
  - **Solution: religion** (moral integrity, community) **and education** (education as workers and as citizens)!
  - Alexis de Tocqueville: self-interest drove the American interest in the common good and the willingness to pledge time and money to it. **Enlightened self-interest!**

At first, American identity was conflicted between states and nationality; cropped up when discussing the requirements to hold public office. Left to the states until 1868, when the 14th Amendment stated that “all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside.”

- Principle of *jus soli*: right of birthplace. Any child born in the US, regardless of parental citizenship, is a citizen; applies to territories, too.

Naturalization: process by which a foreign citizen becomes a US citizen. Tied to immigration policy b/c only those legally admitted to the US can qualify. Criteria:

- 18 yrs old
- Lawfully admitted for permanent residence
- Resided continuously in US for past 5 yrs
- Show that they are of good moral character
- Demonstrate a belief in/commitment to Constitutional principles
- Able to read, write, speak, understand ordinary English language
- Take an Oath of Allegiance.
Native American citizenship has been iffy. Article I defines tribes as foreign nations, while *Cherokee Nation v. Georgia* (1831) defines them as domestic dependent nations.

- 1924: Indian Citizenship Act made them citizens of nation and of states, despite exclusion from voting due to laws.
- 1968: Indian Civil Rights Act gave gov’t “trust responsibility” for them, including protection of “sovereignty of each tribal gov’t”

- Dual citizenship: US recognizes children born to Americans abroad as citizens (*jus sanguines*). Permitted, but not encouraged (conflicting loyalties).

- Citizenship may be renounced. Examples:
  - Becoming a naturalized citizen of another country
  - Swearing an oath of allegiance to another country
  - Serving in the armed forces of a nation at war with the US
  - Working for the gov’t of another country, in a manner requiring one of the first two conditions
  - Formally renouncing citizenship
  - Being convicted of the crime of treason.
  - Denaturalization invoked when naturalized citizens commit fraud when applying for citizenship. Due process applies!

- Rights of citizens and permanent aliens: all identical, except citizens can only hold public office, and only the president has to be a natural-born citizen.
  - Some argue that aliens should be able to vote as they are just as greatly affected by local policy as citizens are.
  - All have similar responsibilities, but citizens have the added burden of voting and jury service.

Lesson 34: What is the importance of civic engagement to American Constitutional democracy?

- Voluntary associations seen by de Tocqueville as essential to the solutions to community problems and to contribute to the common good. Categories:
  - Religious: are so diverse that their only commonality is a church or religious affiliation.
  - Social: double benefit of socializing and aiding each other and others in need.
  - Service and business: double purpose of business networking and service to the community.
  - NGOs: classified by focus, usually more international than local organizations. Have considerable political influence as well.

- Participation in government is also essential! Description:
  - Local: must participate in debate over municipal ordinances, vote, oversee officials, and take office! Some positions are voluntary, like some school boards and citizen advisory boards.
  - State: voters must be well-informed not only about their locality, but about others as well. Judges must also be elected wisely.

- National gov’t participation occurs in many ways: participation in the party system, attendance of Congressmen’s “town hall” meetings for issue discussion

- Voter turnout, after the now-streamlined registration process, has been boosted by mail-in advance ballots. Some others, in a bid to further boost turnout, want to keep polling places open 24 hours and to make Election Day a national holiday to avoid work and school conflicts. Some even want to have several days of polling, to minimize lines.

- Civic engagement promotes self-interest because of the ability to improve communities for business. Other benefits:
  - Acquiring important communications skills
  - Self-confidence
  - Learning the finesse of influencing others
  - Building a reputation
  - Making friends
  - Developing important contacts
The common good is all about classical republicanism, which required citizens to see themselves as part of a larger whole.

LESSON 35: HOW HAVE CIVIL RIGHTS MOVEMENTS RESULTED IN FUNDAMENTAL POLITICAL AND SOCIAL CHANGES IN THE UNITED STATES?

- Two kinds of segregation:
  - De jure: required by law.
  - De facto: caused by the actions of private individuals and groups, such as whites-only restaurants, bathrooms, hotels, theaters. *Brown v. Board of Education* only illegalized de jure segregation; *Brown v. Board of Education* II authorized courts to issue such orders “as are necessary and proper to admit to public schools on a racially nondiscriminatory basis with all deliberate speed the parties to these cases.”
    - Needed extreme measures to counteract the entrenched institution of slavery and Jim Crow laws. Eisenhower had to send the National Guard to open closed schools in Little Rock, etc.
- NAACP was joined by many religious organizations in the civil rights campaign. Engaged in civil disobedience, political activism, etc.
- Civil Rights Act of 1964: followed the March on Washington. Using I.viii of the Constitution and the interstate commerce clause, the Act:
  - Outlawed discrimination in places of public accommodation
  - Gave the national government additional authority to desegregate schools
  - Prohibit labor discrimination
  - Authorize the Justice Dept. to file suit against discriminating states.
- Voting Rights Act of 1965: addressed some absences in the CRA. In effect until 2031! Provisions:
  - Prohibits discrimination based on race
  - Eliminates discriminatory registration processes for voting
  - Requires districts with considerable numbers of non-English speaking voters to provide materials in the necessary languages
  - Requires districts w/ history of discrimination to be monitory by the Justice Dept.
- Civil disobedience used as a last resort by many protesters, along the lines of what was described by Thoreau in his works. Theorized that when there was a conflict of conscience and law, man has a duty to respect his conscience.
  - Critics attack it as an attack on constitutional democracy and the legal system. To circumvent that is to undermine it.
- Organizations like the NAACP have now turned their attention to issues affecting poor, minority citizens, blacks included, like voter registration and the minimum wage. Three other groups that have been particularly active:
  - Farm workers: as led by Cesar Chavez, migrant workers began to demand better conditions. Founded United Farm Workers Union w/ Dolores Huerta. Protested illegal alien hiring, pesticide usage, and wage gouging.
  - Native Americans: protested substandard housing, 80% unemployment, education discrimination, police brutality. American Indian Movement formed, gained attention through terrorist acts in DC, South Dakota. Supports indigenous groups within and outside of the US.
  - Women: after the right to vote, they worked for reproductive rights, equal pay, and harassment. Proposed and got submitted the ERA, which failed ratification by only 3 states.

LESSON 36: HOW HAVE AMERICAN POLITICAL IDEAS AND THE AMERICAN CONSTITUTIONAL SYSTEM INFLUENCED OTHER NATIONS?

- The Constitution has been frequently paraphrased in the founding documents of other nations. Examples:
  - French Revolution: Constitution, Declaration of Rights of Man and Citizen
  - Polish Constitution of 1791
  - Latin American countries seeking independence from Spain
  - Russia (1825)
- German Constitution of 1949, during the post-WWII occupation
- All of the former Soviet Socialist Republics
  - Vaclav Havel, Pres. Czech Republic 1993-2003: “Wasn’t it the best minds of your country, who wrote your famous Declaration of Independence, your Bill of Rights, and your Constitution? Those great documents inspire us all, they inspire us despite the fact that they are over 200 years old. They inspire us to be citizens.”

- Constitutional traditions:
  - Constitutional conventions for drafting
  - Presidential government, separating the executive from the legislative (better than parliamentary?). Exists in 1891 Brazil, sort of Argentina, strangely in France (president and prime minister).
    - Much aversion to a strong executive due to experience with Napoleon and the seizure of power.
  - Federalism: separate and overlapping powers dictated by the rules of a constitution have popped up all over. Canada and Australia are unique in giving states/provinces important powers. Other countries include religious groups in the structure.
  - Judicial power and human rights: the Bill of Rights became one of the foundations of the human rights movement in the 20th century, as it details all of these rights existing seemingly only because men are men and provides an enforcement mechanism for them.
    - Judicial review exists in approximately ¾ of countries in existence. However, European countries have special constitutional courts that offer advisory opinions, unlike the SC.

- Bill of Rights differs from modern declarations of rights in the sparing nature of rights; no ruling on modern social matters like healthcare and wages. Universal Declaration of Human Rights grew out of FDR’s desire for a second BoR dealing w/ modern issues:
  - Similarities to original BoR: prohibition of ex post facto laws, habeas corpus equivalent, equal protection of the law. All the usual rights.
  - Differences: strengthens certain liberties, like the right to personal liberty encompassing marriage; duties to the community; just requirements of morality; aspirational goals:
    - Work, join unions, receive equal pay
    - Rest and leisure
    - Adequate standard of living for health and well-being
    - Education
    - Seek, receive, and impart ideas

**Lesson 37: What key challenges does the United States face in the future?**

- Predictions for the future:
  - 400+ million population
  - Most population increase from immigration
  - Huge racial/ethnic diversity
  - Blurred racial lines from intermarriage
  - Longer lives due to medical advances – 25% over 65
  - Most neighborhoods in the South/West
  - Soaring fossil fuel, water costs
  - Revolutionary new communications tech (again)

- Diversity creates the challenge of integrating sometimes disparate and conflicting cultures into the American identity, as outlined in our motto, *E pluribus unum.*
  - Some worries exist about how many different cultures one country and national identity can absorb.

- Technology creates the resounding effect of bridging distances between people, governments, and social/political groups.
  - Problems of information accountability and ease of access exist. People just need to man up and get smart!
Many Americans have changing expectations of the government as times are changing. Tocqueville: “Americans look upon social authority with an eye of mistrust and anxiety” and only turn to government when necessary.
  - Govt provides more of a safety net now: health, social services take up more money than defense. Huge growth in state, local gov’ts. Critics say that too much control is being surrendered to the gov’t!

Civil discourse has fallen by the wayside in modern cutthroat politics. Even Constitutional Convention had rules: give everyone the chance to speak, address the issues only, and give full attention to debates.
  - Spirit of compromise: Ben Franklin quote, “I confess that there are several parts of this constitution which I do not at present approve”

Potential additional Constitutional changes:
  - Life and Death:
    - Should the Constitution be amended to define the beginning of life and to identify a right to be born?
    - ...to define when life ends and to identify a right to die?
    - ...to include the right to use medical advance to transform and improve lives?
  - Term limits:
    - Should the 22nd Amendment be repealed so that the people can determine the term limit for a president?
    - Should the Constitution be amended to limit the number of terms served in the House or Senate?
      - US Term Limits v. Thornton, 1995: cannot add to qualifications for serving in Congress!
    - ...so that judges holding office under Article III serve limited terms instead of during good behavior?
  - Property rights: the alteration of the exercise of the “ takings clause” provided just compensation under the principle of eminent domain. Kelo v. New London, CT held that taking private property for economic development is public use. Discuss!
  - Campaign finance: should limits be placed on the amount of money spent/accepted in the electoral process?
      - Amendment to set it aside? Amendment to set limits?
  - Immigration: illegal immigration or legal immigration, then staying past visa expiration date.
    - Should the 14th Amendment be changed so that children of aliens don’t have the jus soli principle?
    - Should the equal protection/due process clauses be altered to read citizen or legal resident instead of person?

**LESSON 38: WHAT ARE THE CHALLENGES OF THE PARTICIPATION OF THE UNITED STATES IN WORLD AFFAIRS?**

- Thucydides, Machiavelli argued for forthright and aggressive foreign policy. Despite isolationist pressures, the US has to involve itself with the rest of the world for trade relations and for maintaining alliances.
- Constitutional powers for international wheelin’ and dealin’:
  - Legislative:
    - Regulate international commerce
    - Declare war, issue letters of marque and reprisal, make rules for land/water captures.
    - Raise and support armies, provide and maintain a navy, regulate land and naval forces
      - Appropriations can’t last more than 2 years!
    - Define and punish piracies and felonies, offense against the law of nations
    - Ratify treaties
  - Executive:
    - Negotiate treaties as chief diplomat
    - Act as commander in chief
    - Appoint ambassadors, public ministers, consuls
    - Receive foreign ambassadors and ministers
  - Judicial:
    - Exercise original jurisdiction over cases re: ambassadors, ministers, consuls
- Exercise appellate jurisdiction over admiralty and maritime cases

- International law: the body of rules of conduct accepted as legally binding by countries in their relations with each other. Creates and maintains international order. Allows nations to help themselves – no international police force for enforcement, International Court of Justice is limited by those that join it...all based upon willingness of nations to obey it. Four overarching ideals:
  - Equality of sovereign nation-states
  - Corollary: self-determination of peoples
  - Noninterference in the affairs of other nations
  - No use of force or threat of force
  - Corollary: peaceful resolution of dispute
  - Respect for human rights

- International organizations can attempt to bring order thru collective security (one gets attacked, all others retaliate).
  - The UN builds on this with the promotion of friendly relations and international cooperation, peaceful dispute resolution, and encouragement of respect for human rights and fundamental freedoms.
  - UN Security Council takes care of peace and security in the world.
  - Other orgs: NATO, IMF, World Bank, WTO

- Americans can influence international relations by:
  - Voting, contacting officials, lobbying
  - Joining NGOs in their particular area of interest
  - Traveling, exercising citizen diplomacy, and participating in international education and cultural exchange
  - Making informed consumer decisions based on world economic decisions

- Globalization is the trend towards a more global, spread-out economy of interdependence on cultures, social relations, and politics. Central features:
  - Trade and commerce: 20x increase in trade in last 50 years. Multinational corps responsible for a lot of this – huge budget, dealing with a lot of exports of manufactured goods.
  - Worker migration: moving from one country to another to find a better job is common, but leads to immigration disputes. Outsourcing sends jobs out of the countries, and changes intranational migration patterns as people relocate for employment reasons.
  - Capital: investments now exist as nations lending to one another, and capital markets are extremely volatile.
  - Information: every distance is made a million times shorter with the Internet.

LESSON 39: WHAT DOES “RETURNING TO FOUNDING PRINCIPLES” MEAN?

- Keynes: “in the long run, it is ideas and not men who rule the world”
  - All ideas have consequences. Communism took over the world, but Poland’s staunch Catholicism endured and let it rebel ideologically.
  - Solidarity: Polish trade union, founded in 1980, was a secular org that overthrew the government and installed itself in 1989. Inspired many Soviet satellites to do the same.
    - Victor Hugo: “An invasion of armies can be resisted, but not an idea whose time has come.”

- Mason: “frequent recurrence to fundamental principles.” Republican idea that a government and society couldn’t survive unless each successive generation was reminded of the founding framework by which it lived.
  - Richard Henry Lee: “If a nation means its systems, religious or political, shall have duration, it ought to recognize the leading principles of them in the front page of every family book. What is the usefulness of a truth in theory, unless it exists constantly in the minds of the people and has their assent?
  - No uncritical acceptance of the wisdom of the past, but a constant reminder of it and building upon it.
    - Exactly what the founders were all about!

QUOTES
“Authority without wisdom is like a heavy axe without an edge, fitter to bruise than polish.” Anne Bradstreet.
“The good of the people is the highest law.” Cicero

“Liberty, too, must be limited in order to be possessed.” Edmund Burke

“Our political harmony is therefore concerned in a uniformity of language.” Noah Webster

“The problem is often simply referred to as the tension between unity and diversity, or order and liberty, or the public and the private.” R. Freeman Butts

“Unanimity is impossible; the rule of a minority, as a permanent arrangement, is wholly inadmissible; so that, rejecting the majority principle, anarchy, or despotism, in some form is all that is left.” Abraham Lincoln

“When great changes occur in history, when great principles are involved, as a rule the majority are wrong. The minority are right.” Eugene Debs

“A nation is judged by how it treats its minorities.” René Lévesque

“I admit the tyranny of majorities may be as bad as the tyranny of kings...and I do not think any rational or sober man will say that what is justifiable against a tyrannical king be justifiable against a tyrannical majority.” Arthur James Balfour

“If, my countrymen, you wait for a constitution which absolutely bars a power of doing evil, you must wait long, and when obtained it will have no power of doing good.” Oliver Ellsworth

“A government ought to contain in itself every power requisite to the full accomplishment of the objects committed to its care, and to the complete execution of the trusts for which it is responsible, free from every other control, but a regard to the public good and to the sense of the people.” Alexander Hamilton

“I own I am not a friend to a very energetic government. It is always oppressive.” Thomas Jefferson