

The Texas Constitution

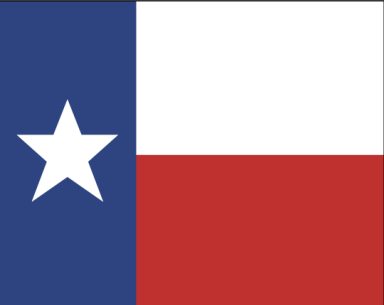
Chapter 2

Champagne and Harpham

State and Local Government

GOVT 2306

Professor Davis



Announcements

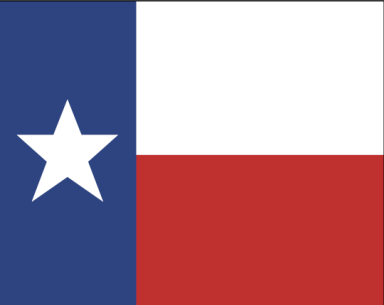
- SI Session dates on eLearning

Mondays, 3pm to 3:50pm

Tuesdays 11am to 11:50am

Thursdays 1pm to 1:50pm

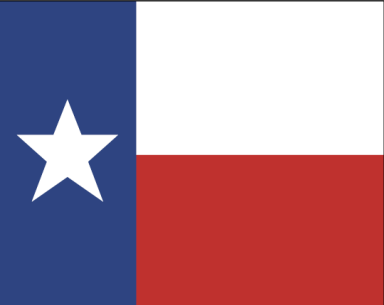
*All sessions are located in room MC 1.502
AB in the Eugene McDermott Library basement.



The Function of a State Constitution

Constitution: the legal structure of a government which establishes its power and authority as well as the limits on that power

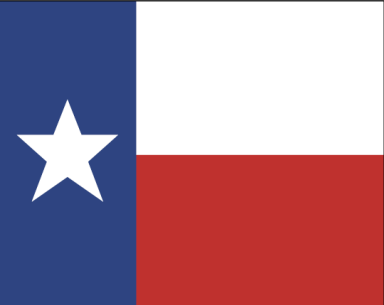
- Legitimizes political institutions by clearly explaining their source of power
- Delegates power to institutions and individuals and explain how the powers should be used
- Prevents concentration of political power by creating checks and balances



Why the Texas Constitution Matters

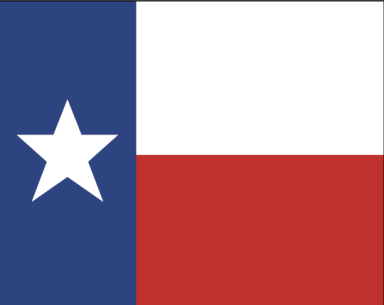
The Texas Constitution:

- Has more expressed, individual rights than the US Constitution that directly relate to lives of private citizens
- Texas Constitution is a long, detailed document
 - Many items are policy issues, not constitutional issues
- The amendment process is (must be) easier than the US Constitution



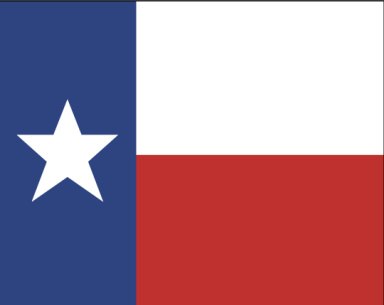
Overview of State Constitutions

- All states have a constitution
- The Texas Constitution is a guideline for government at the state level
- Each state creates their own constitution
- Many parts of the US Constitution was borrowed from already established state governments
 - The most recent Texas Constitution borrowed from the US Constitution



Overview of State Constitutions

- Bicameral legislature
 - Nebraska is the only state with a unicameral legislature
- Upper chamber and lower chamber
 - Wisconsin, New York, and California refer to the lower chamber as a state assembly
 - Texas has a Texas House of Representatives and a Texas Senate



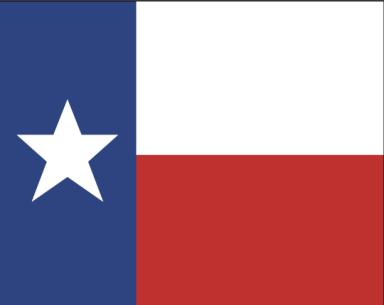
Overview of State Constitutions

- Lower and upper chambers differ in size from state to state

Lower chambers: **Texas – 150**, California – 80, Pennsylvania – 203, Montana – 100

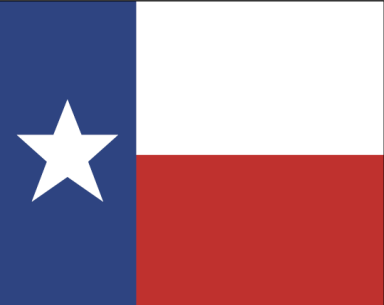
Upper chambers: **Texas – 31**, Idaho – 25, North Dakota – 47, New York – 63

- Some state executive offices have no term limits
 - Ex: **Texas**, New Hampshire, Iowa, Connecticut...



Overview of State Constitutions

- Average length of state constitution about 26,000
- Alabama – longest Constitution with approx. 174,000 words
 - Includes more than 766 amendments
- Texas has 4th longest Constitution
- Rhode Island – youngest state Constitution (1986)
- Massachusetts – oldest state Constitution (1780)



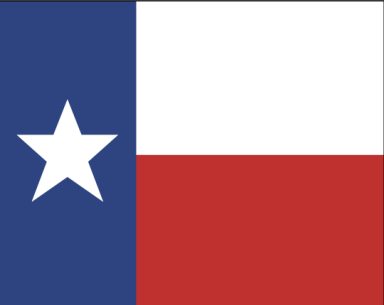
Ideals of the Texas State Constitution

Power derived from the citizens

- “All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit:” (Article 1, sec. 2)

Separation of Powers

- division of governmental power among several institutions that must cooperate in decision making
- The executive, legislative, and judicial branches all have unique powers, obligations and duties



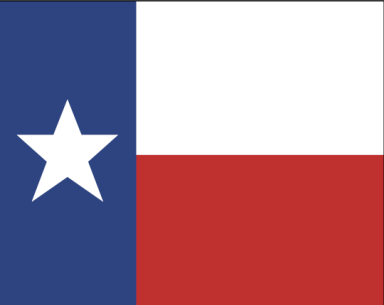
Ideals of the Texas State Constitution

Checks and Balances

- overlapping powers given to different branches of government to limit the concentration of power in any one branch of government

Prevention of Tyranny

- Refers to the concentration of too much power in a branch of government
- The Texas Constitution contains individual rights to prevent tyranny
- Checks and balances are also used to prevent tyranny



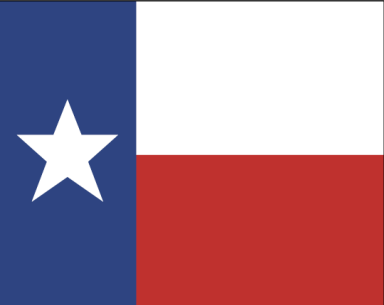
Ideals of the Texas State Constitution

Individual Rights

- The Constitution protects individual rights from encroachment of government

Federalism

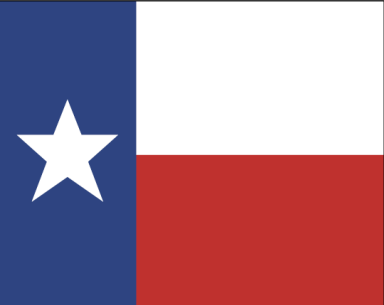
- division of government between a central government and regional governments
- The Texas Constitution articulates the authority of the state government and its subsidiaries (state and county government)



Differences in the US Constitution and the Texas Constitution

Supremacy Clause

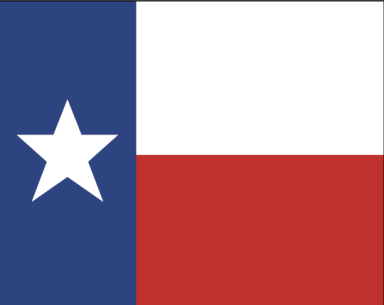
- Article VI of the US Constitution states the Constitution and all laws passed by the national government are the “supreme law of the land” and superior to all law adopted by any state
- The state and national governments have defined areas of sovereignty
- Local governments, counties and municipal corporations are subsidiaries of the state governments



Differences in the US Constitution and the Texas Constitution

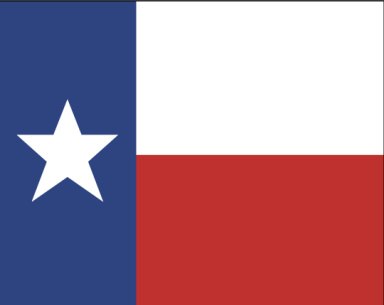
Necessary and Proper Clause

- Article 1, Section 8 of the US Constitution that provides Congress with the authority to make any law needed carry out its powers that are authorized by the Constitution.
- The clause allowed for the expansion of the federal government
- “Drafters of Texas’s various constitutions generally have been unwilling to grant such an enormous loophole in the exercise of governmental power” (pg. 42)



Previous Texas Constitutions and Other Documents

1. Constitution of Coahuila y Tejas (1827)
 - Texas is a part of the Mexican political regime and subject to the Mexican Constitution
2. Constitution of the Republic of Texas (1836)
 - Mexico is not fulfilling its Constitutional responsibilities
 - Texas Declaration of Independence
 - Drafts a constitution requesting to be annexed by the U.S. government



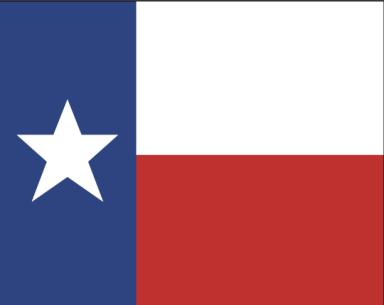
Previous Texas Constitutions and Other Documents

3. Texas State Constitution of 1845

- Texas is admitted to the U.S. as part of the Union and writes a new Constitution
- Admission originally delayed because of slavery in Texas

Annexation Deal

- Texas must cede all military bases to U.S. military
- Texas responsible for paying public debt
- Texas retains right to unappropriated lands



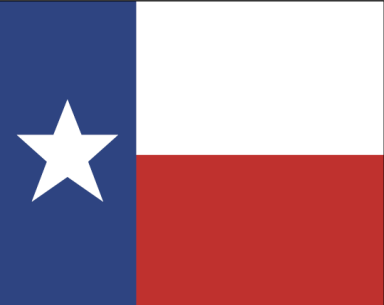
Previous Texas Constitutions and Other Documents

4. Texas Constitution of 1861

- Texas joins the Confederate States of America
- Sam Houston was governor at the time of secession

5. Texas Constitution of 1866

- Texas rejoins the Union
- The 1866 Constitution did not fully comply with Johnson's reconstruction plan

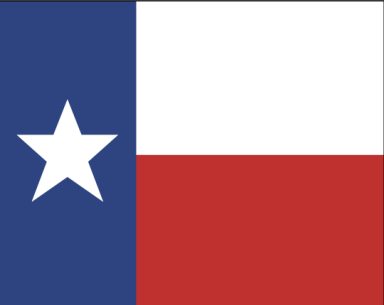


Previous Texas Constitutions and Other Documents

6. Texas Constitution of 1869

- Texas rewrites Constitution to meet the Reconstruction Act requirements
- Executive powers greatly expanded
- Never submitted to voters for approval

Radical Republicans: a bloc of Republicans in who pushed through black suffrage and military occupation in the South after the Civil War



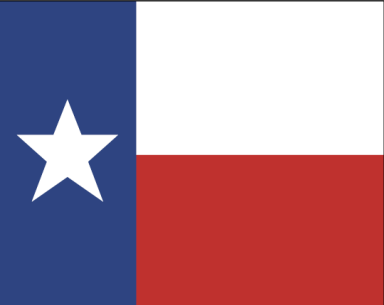
Governor Edmund Davis



- Served 1870 to 1874
- Richard Coke (D) elected to governor in 1873
- Davis invalidated the Coke election via handpicked Supreme Court justices
- Davis refused to give up governorship, barricaded himself in the capitol building



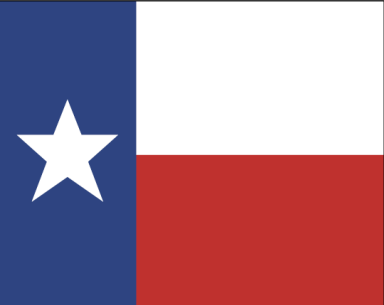
Moore Texas by Roger T. Moore Jan. 14, 1874: Defeated reconstructionist Governor Edmund Davis refuses to vacate his office.



Previous Texas Constitutions and Other Documents

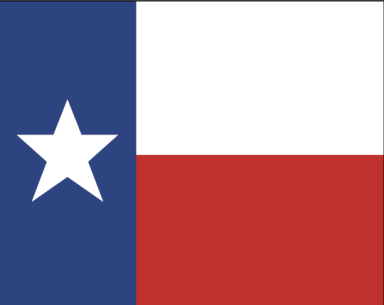
7. Texas Constitution of 1876

- Current Texas Constitution (amended)
- Reaction to the previous constitution that allowed too much centralized authority in executive branch
- Reflects the “fears of what government could do if the principle of limited was not clearly established” (56)
- See a link for “The Texas State Constitution” eLearning to read the entire Constitution



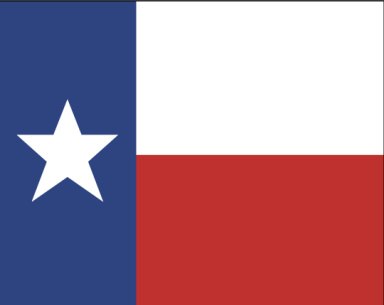
Major Themes in 1876 Texas Constitution

1. Strong, popular control of government by the people
2. Constitutions should limit the power of state government
3. Emphasis on economy
4. Promote agrarian interests



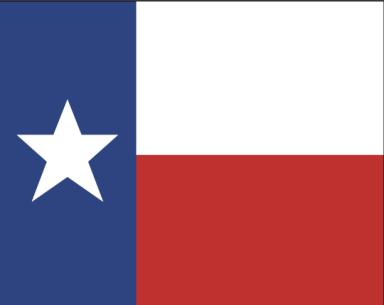
The Texas Constitution

- The Preamble
- Article 1: The Bill of Rights
- Article 2: Separation of Powers in Government
- Article 3: The State Legislature
- Article 4: The Plural Executive
- Article 5: The Judicial Department



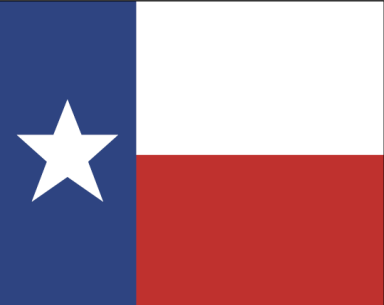
The Texas Constitution

- Article 6: Suffrage in Texas
- Article 7: Education
- Article 8: Taxation and State Revenues
- Articles 9: Concerning Local Government, Counties, and Municipal Corporations
- Article 10: Railroad Commission and Regulations



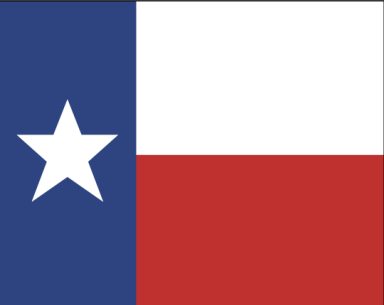
The Texas Constitution

- Article 11: Concerning Local Government, Counties, and Municipal Corporations
- Article 12: General Laws for Corporations
- Article 13: (Currently Deleted) Concerning Spanish and Mexican Land Titles
- Article 14: General Land Office and Registering Title Lands



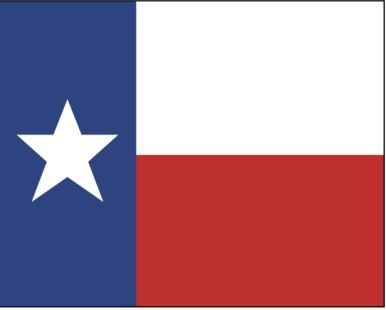
The Texas Constitution

- Article 15: Impeachment Provisions
- Article 16: General Provisions (covers a wide range of topics)
- Article 17: Amendment Procedure



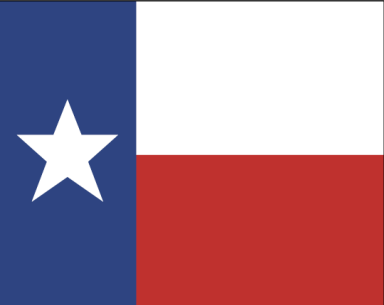
Article 1: Texas Bill of Rights

- the inalienable right to alter, reform or abolish their government in such manner as they may think expedient (sect. 2)
- Enumerate criminal rights (sect.s 10-15)
- The writ of habeas corpus is a writ of right, and shall never be suspended (sect. 12)



Article 1: Texas Bill of Rights

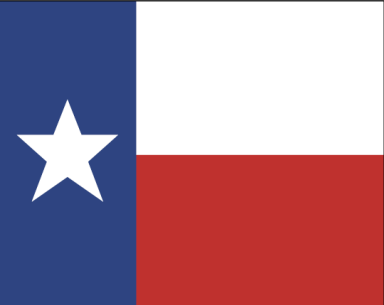
- No retroactive laws (sect. 16)
- Military is subordinate to civil authority (sect. 24)
- Enumerated rights of crime victims (sect. 30)



****Texas Constitution****

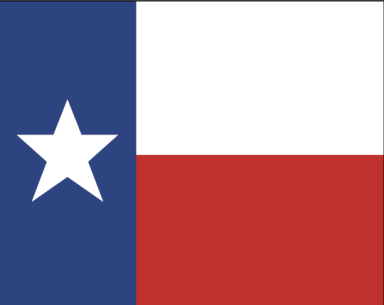
Amendment Procedure

1. Amendment is proposed by the legislature in a regular or special session
2. The amendment is approved by two-thirds' majority in each chamber
3. The amendment is announced twice in a newspaper (and explained)
4. The amendment must be approved by the majority of voters



The Texas Constitution and the need for Amendments

- Texas Constitution takes up about 67 pages in the Texas Almanac
 - U.S. Constitution is about 8 pages
- 765 amendments proposed by Texas state legislature
 - 483 approved by citizens
 - 282 disapproved by citizens



Helpful Source

Maddex, Robert L. 2006. *State Constitutions of the United States*. 2nd ed. Washington, D.C: Congressional Quarterly.



Lecture Slides

GOVERNING TEXAS

SECOND EDITION

ANTHONY CHAMPAGNE and EDWARD J. HARPHAM
Revised by Ronald Vardy