

Amendments

March 3, 2021 10:36 AM

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Midterm-----

★ **Amendment VI**

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

★ **Amendment VII**

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

★ **Amendment VIII**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

★ **Amendment IX**

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage

others retained by the people.



Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Introduction

January 29, 2021 11:53 AM

- ★ • Genesis 9:6
- Three Governing Institutions
 - ★ ○ The Home - Ephesians 6:4
 - ★ ○ The Church - Hebrews 10
 - The church is a governing institution
 - ★ ○ The Government - I Samuel 8:7
- Forms of Government
 - ★ ○ Authoritarian - Louis XIV, "I am the state"
 - ★ ○ Totalitarian - Soviet Union, complete government control
 - ★ ○ Republic - balance of liberty and authority
- Three R's of Republic
 - Representative government - elect people to represent who you are
 - Roman origins
 - Rule by Law

Week 1

February 1, 2021 4:09 PM

- The United States Constitution is the oldest written national constitution of the modern era
- A collection of written or unwritten principles that make up the fundamental enabling law of the state
- A living constitution?
- Political thought
 - John Locke
 - Government and natural rights
 - God given rights
 - Social Contract Theory
 - English Precedent
 - Magna Carta - 1215
 - English Bill of Rights - 1689
 - Fighting to preserve
 - Parliament
 - Virginia House of Burgesses
 - Mayflower Compact
 - Benign Neglect
 - Change of mindset
 - Seven Years War
 - Peace and Restoration
 - Kicked out
 - Declaration of Independence
 - Thomas Jefferson
 - Articles of Confederation (1781-87)
 - Purpose was a "League of friendship"...
 - Viewpoint: just another treaty with...
 - Problems with the ARTICLES
 - No judiciary
 - No executive
 - Could not levy taxes
 - No one to carry out laws
 - No one to decide disputes
 - Could not regulate commerce
 - National Problems
 - Problems with each other:
 - ◆ Clash over western lands
 - ◆ Port cities taxed imported goods, including goods from neighboring states
 - Financial Woes:
 - ◆ Debt
 - ◆ Currency crisis
 - Problems with other countries:
 - ◆ British continued occupation of U.S. terms
 - ◆ Nations began calling due loans
- ★ □ Shay's Rebellion 1786-1787, Sheffield Massachusetts - inspired the states to send delegates to the convention in Philadelphia
- Roadmap to the Convention

- ★ ○ Mount Vernon Conference 17 - very successful
 - George Washington's house
- ★ ○ Annapolis Convention 1786 - failure
- ★ ○ Philadelphia 1787
 - ★ ▪ Purpose - revise the ARTICLES
 - Delegates and States?
- ★ ○ Absent from the convention:
 - John Adams
 - Thomas Jefferson
 - Patrick Henry
- Steps to the Constitution
 - ★ ○ Mayflower Compact (1620) - an agreement that they will form government in the name of God
 - A compact is a binding contract
 - A charter is the most familiar form of a constitution to the colonists
 - Constitutions
 - ★ ▪ A collection of written or unwritten principles that make up the fundamental enabling law of the state
 - Colonial charters were rendered void following independence, but...
 - Connecticut used its charter
 - Rhode Island used its charter
 - Massachusetts - oldest written constitution
 - ★ ○ Massachusetts Constitution (1780)
 - Massachusetts learning from mistakes:
 - Governor directly elected
 - Governor could veto legislation
 - Judges served for life
 - Weak, less democratic
 - Pennsylvania learning from mistakes:
 - Highly democratic, tendency to tyranny
 - Power with unicameral legislature
 - Annual election for legislators
 - Four Important Men
 - ★ ▪ Benjamin Franklin - greatest contributing factor to unity - Connecticut compromise - called for prayer
 - ★ ▪ Alexander Hamilton - biggest supporter of a strong national government - co-author of the Federalist papers as well as Gouverneur Morris
 - ★ ▪ James Maddison - Father of the Constitution
 - ★ ▪ George Washington - the greatest legitimizing factor - president of the convention
 - Constitutional Convention (May-September) 1787
 - ★ ▪ The challenge - The Virginia Plan, The Randolph Plan, The Large Estate Plan
 - Bicameral legislature
 - Three branches of government
 - Radical change: scrap the Articles of Confederation
 - ★ ▪ The counterproposal - The New Jersey Plan
 - Only amend the Articles
 - Unicameral legislature
 - ★ ▪ Connecticut or Great Compromise
 - Equality in the Senate
 - Proportional in the House
 - 3/5ths Compromise - slaves
 - Other compromises

- Creation of the electoral college
 - Supreme Court Justices
 - The conclusion
 - ★ □ Signed by 39 delegates - September 17, 1787
 - Constitution went to states for ratification
 - Problem of ratification
 - ★ □ Federalist Papers - Madison, Hamilton, Jay (Hamilton wrote the bulk of them)
 - Bill of Rights
 - Result
 - 1788 New Hampshire
- Basics of the Constitution
 - Premises of the Founders
 - The Founders believed...and rejected...
 - Aristotle
 - Federalism - a division of power between state...
 - National Government
 - State Governments
 - ★ ▪ Purpose was to protect liberty
 - Separation of Powers - "For the LORD is our judge, the LORD is our lawgiver, the LORD is our king; he will save us." - Isaiah 33:22 - perfectly mirrors the National Government
 - Idea came from Montesquieu
 - ★ ▪ Purpose was to prevent tyranny
- Checks and Balances
 - Each branch exercises some control over the others
 - ★ ○ Purpose is to promote some level of cooperation
- Republican Government
 - Government that is representative
 - ★ ○ Purpose was to promote representation and rule by law
- Aspects of Republican government
 - Rule by law
 - A republic is a government of law, not of men
 - Representative
 - People should not rule directly in their government
 - ★ ▪ States guaranteed a republican form of gov't. In Article 4, Section 4
 - ★ ▪ Amending the Constitution - Article 5
 - Were the Founders motivated primarily by economics? No
 - Charles Beard (1913) - discredited today by MacDonald

Chapter 2-3 (UN notes)

February 8, 2021 4:22 PM

- The Founding Principles - James Madison (UN comparison essay, so write all notes)
 - 1. Fear of political tyranny
 - "The conclusion which I am warranted in drawing from these observations is, that a mere demarkation on parchment of the constitutional limits of the several departments, is not a sufficient guard against those encroachments which lead to a tyrannical concentration of all the powers of government in the same hands." - James Madison, *The Federalist*, #48
<http://press-pubs.uchicago.edu/founders/documents/v1ch10s15.html>
 - How do we avoid concentration of power and tyranny?
 - Rule of law - to be ruled by the constancy of the law and not the arbitrary will of man
 - "But where, say some is the King of America? I'll tell, you friend, he reigns above, and doth not make havoc for mankind like the Royal Brute of Great Britain . . . So far as we approve of monarchy, that in America the law is king. For as in absolute governments the King is law, so in free countries the law ought to be king; and there ought to be no other." - Thomas Paine
 - Republican Government - a government without a king and one where the "scheme of representation" takes place
 - "The United states shall guarantee to every state in the Union a republican form of government." Article 4, section 4
 - "A Republic, if you can keep it." - Benjamin Franklin
 - "The only foundation for a useful education in a republic is to be aid in religion. Without this there can be no virtue, and without virtue there can be no liberty, and liberty is the object and life of all republican governments. Without religion, believe the learning does real mischief to the morals and principles of mankind" - Benjamin Rush
 - A Republic, not a democracy
 - ". . . democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths." - James Madison, *Federalist* 10
- Structure of Government - The Constitution is structured so as to minimize tyranny
 - 1. Separation of Powers
 - "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 judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression." - Montesquieu, *The Spirit of the Laws* (Book XI)
 - 2. Federalism
 - "If national government is too big, loyalty shifts to the states. If the states are too strong, loyalty shifts to the national government." - Alexander Hamilton, *Federalist* 28
- Recognition of Divine Liberty
 - "The rights of the colonists as Christians...may be best understood by reading and carefully studying the institution of the great Law Giver and Head of the Christian Church, which are to be found clearly written and promulgated in the New Testament." - Sam Adams
 - "And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are a Gift of God?" - Thomas Jefferson
- Independence and National Sovereignty - Reconciliation or Independence? They chose

Independence

- ". . . these United Colonies are, and of right ought to be free and independent States . . ." - the Declaration of Independence
- ★ ○ Avoid entangling Alliances
 - "Peace, commerce, and honest friendship with all nations-entangling alliances with none." - Thomas Jefferson
- The Monroe Doctrine - Prohibits European meddling in the national affairs of the nation-states in this hemisphere
- Washington and Neutrality
 - Washington declares neutrality in the war between England and the France - "It is our true policy to steer clear of permanent alliance with any portion of the foreign world." - George Washington, -Inaugural Address, 1796

Week 2

February 8, 2021 4:35 PM

- Federalism
 - "An institutional arrangement that creates two relatively autonomous levels of government, each possessing the capacity to act directly on the people with authority granted by the national constitution."
- Definitions
 - Federal - General term for the national government
 - State - General term for the governments of the 50 states
- Characteristics
 - Purpose of the Federal Government
 - ★ ◻ Protect basic rights and liberties of American citizens
 - Central Government
 - U.S. Capitol
 - Laws
 - Coercing the states (breaches into State Government)
 - State Government
 - Louisiana State Capitol
 - Laws
- Federal Minimum Drinking Age
 - 1970's most states lowered minimum age to 18
 - 1980's (Reagan), states began raising drinking age
 - Congress starts to consider mandatory age 21
 - Several senators said that the bill was violation of states' rights
 - Bill before Congress did not manage age 21; however:
 - No age 21 = lose 10% federal highway funding
 - States receive 90% of Fed. Hwy. Funds from Wash
 - In essence states would now have to provide 20% of their own funds for Fed. Hwy.
- Other Types of Divisions
 - ★ ◦ Unitary - Central government is sovereign
 - Central government
 - ◻ State
 - ◆ Citizens
 - ★ ◦ Confederacy - Local governments are sovereign
 - State
 - ◻ Central Government
 - ◻ Citizens
 - ★ ◦ Federal - Both central and local governments are sovereign in some areas
 - Central Government
 - State
 - ◻ Citizens
- Federalism and The Constitution Power Divided
 - ★ ◦ Enumerated (Express) Powers
 - Powers listed (enumerated) in the Constitution specifically for the central government
 - ★ ◦ Implied powers
 - Those powers deemed necessary to carry out the delegated powers. - Article 1, Section 8, clause 18 "Necessary and Proper Clause", aka Elastic Clause

- ★ ○ Concurrent Powers
 - Powers shared by the national and state governments
- ★ ○ Reserved Powers
 - Powers given to the state government alone. G4
 - In summation
 - Expressed + Implied = Delegated
- America Historically
 - Confederacy
 - Federalism
 - Unitary
 - History of federalism
 - ★ ▪ Federalist 46:
 - State and federal governments are but different agents and trustees of the people, constituted with different powers
 - ★ ▪ Federalist 28:
 - People could shift support between state and federal levels as needed to keep the two in balance
 - Dual Federalism 1789-1913
 - The states and the federal government have sovereignty in their own sphere and these spheres should be kept separate
 - Two views
 - Hamilton - strong federal government
 - Jefferson - states' rights
 - Between 1789 and 1865 the major federal issue was national supremacy vs states' rights
 - National supremacy won
 - ★ ○ McCulloch v. Maryland (1819)
 - Yes - "Necessary and Proper" - Justice John Marshall
 - No - "The Power to tax involves the Power to destroy"
 - Key idea: Implied Powers established
 - ★ ○ Gibbons v. Ogden (1824)
 - Ogden - NY
 - Gibbon - Congress
 - Who has control of interstate trade?
 - Commerce clause expanded in favor of Fed.
- The Civil War (1861-1865)
 - Supremacy v. States' rights
 - The federal government's sovereignty derived directly from the people
 - Madison and Jefferson believed that states had the right to nullify a federal law that violated the Constitution in the states' opinion
 - ★ ○ Alien and Sedition Act - 1798
 - Put limitations on the first amendment (can't do that)
 - ★ ○ Madison and Jefferson: Kentucky and Virginia Resolutions - the first example of states rights
 - John Calhoun of South Carolina brought up this idea again when there were federal efforts to restrict slavery
- Post Civil War
 - Expansion of Commerce Clause
 - Interstate Commerce Commission - 1887
 - Sherman Anti-Trust Act - 1890
 - Push back
 - ★ ▪ United States v. E.C. Knight
 - limited national control

- ★ ▪ Lochner v. New York
 - 14th Amendment

Week 3

February 16, 2021 8:26 PM

- Cooperative Federalism 1913-1964
 - Federal, state, and local governments share in responsibility and power
 - Spheres of power and authority are mixed
 - Where does Washington get the money to pay the bills?
 - Tariffs
 - Means of generating income from imports
 - High tariffs created a surplus during 1880s
 - Income Tax - 16th Amendment
 - Necessary after loss of surplus
 - Tool for public financing
 - Print Money
 - Federal government manages currency
 - Prints money - "borrowing"
 - Politics
 - States could get "free" money
 - Giving to one group leads to giving to all groups
- Grants-in-aid
 - Federal money provided to states and local governments
 - Started with land grant colleges - result of the Morrill Act (1862)
 - First large grants came during the Depression
- Types of Grants
 - ★ ◦ Categorical Grants
 - Specific purpose, conditions, matching funds
 - More restrictions
 - Fast - conservative, Congress
 - ★ ◦ Block Grants
 - Broad purpose, few conditions, allocated by a formula
 - Few restrictions
 - Slow - liberal, States
 - Revenue Sharing (1972-1986) - broad
- Lobbying for Grant Dollars
 - Regionally - mostly done in the Congress
 - Occupational - governor, mayor, state, legislators, county officials
- Coercive Federalism (1964-1980)
 - 1930s-1960s
 - Local
 - Economic
 - 1960s-1970s
 - National
 - Social
- Social Spending
 - Increases in Federal Grants
 - New Deal
 - Great Society
 - Restrictions on Aid
 - Conditions-of-aid
 - Rules states must follow to receive aid

- Mandates
 - Rules states must follow whether they receive aid or not
 - "New Federalism"
 - Nixon
 - Reagan: 1982-1987
 - Purpose was to restrict mandates; didn't work out
- What About Direct Democracy?
 - Definition: Direct democracy occurs when policy questions go directly to the voters for a decision (like ancient Athens)
 - History
 - Progressive Era
 - Teddy Roosevelt
 - Robert "Battling Bod" La Follette
 - Government is the answer
 - Hand in hand
 - Referendum - asks citizens to confirm or repeal a decision made by the government
 - Legislative
 - Judicial
 - Popular
 - Initiative - Law or Constitutional amendment proposed by citizens
 - Recall - Remove an elected official from office
 - Policy Making Through Direct Democracy
- Civil Liberties
 - Introduction
 - Limited National Power: Do's and Don'ts
 - Constitution - "do"
 - Bill of Rights - "do not"
 - "Parchment Barriers"
 - "Eternal vigilance is the price of Liberty" - John Philpot Curran
 - Freedoms, Liberties and Rights
 - Civil Liberties - limitations on government power, intended to protect freedoms that governments may not legally intrude on
 - Civil Rights - government officials will treat people equally and that decision will be made on the basis of merit rather than race, gender or other persona characteristics
 - "All men are created equal" - The Declaration of Independence
 - "For there is no respect of person with God" - Romans
 - War can play havoc with Civil Liberties
 - The Alien and Sedition Acts - 1789
 - Four Acts
 - ◆ "publishing any false, scandalous and malicious writing or writings against the government of the United States, . . ."
 - The Kentucky and Virginia Resolutions
- Civil Liberties: In the beginning. . .
 - English Precedent
 - Magna Carta - 1215
 - English Bill of Rights - 1689
 - The Framers
 - Madison and the Antifederalists
 - ★ ○ Barron v. Baltimore (1833)
 - Bill of Rights does not apply to the states

Some of the Cases

March 15, 2021 4:19 PM

- ★ • Everson v Board of Education
 - This is the case that established the “Wall of Separation”
 - No government intervention in religion
- ★ • First applied to the states via the 14th Amendment in Cantwell v Connecticut 1940
 - Anti-Catholic record playing on street corner. Arrested for breaking local law
 - The court says they can trump local law
 - “the local law is not always constitutional and must be cut down”
- ★ • Sherbert v Verner 1963
 - Sherbert test - court interfering with state and local laws
- ★ • Lemon vs Kurtzman 1971
 - The Lemon test - the first amendment gets overtaken by the 14th amendment
- ★ • Employment Division v Smith 1990
 - Indians were doing illegal drugs

Incorporation:

- ★ • Gitlow v New York 1925: federal guarantees of 1st Amendment (free speech and free press) also applied to the states
- ★ • Palko v Connecticut 1937: certain rights should be applied to the states because “they represented fundamental liberties”
- ★ • District of Columbia v Heller: held for the first time that the 2nd amendment did not allow the federal government to ban the private possession of firearms
- ★ • McDonald v Chicago 2010: the above decision also applied to the states. The 2nd Am (allows the people to keep and bear arms applies to state governments as well as federal)
- ★ • U.S. Sedition Acts of 1798: imposed no prior restraint on publishers; but they are liable to punishment after the fact
- ★ • Schenck v US 1919: speech may be punished if it creates a clear and present danger test of illegal acts
- ★ • New York Times v Sullivan 1964: to libel a public figure, there must be “actual malice”
- ★ • Tinker v Des Moines 1969: public school students may wear arm bands to protest Vietnam war
- ★ • Miller v California 1973: Obscenity defined as appealing to prurient interests of an average person with materials that lack literary, artistic, political, or scientific value
- ★ • Chaplinsky v New Hampshire 1942: Fighting words are not protected by first am
- ★ • Texas v Johnson 1989: there may not be a law to ban flag-burning
- ★ • Reno v ACLU 1997: there can't be a law that bans sending indecent material to minors
- ★ • FEC v Wisconsin Right to Life 2007: prohibits campaign finance reform law from banning political advocacy
- ★ • Citizens United v FEC 2010: part of the McCain-Feingold campaign finance reform law is unconstitutional. It is unconstitutional to prevent corporations and labor unions from spending money on advertisements in political campaigns

Week 5

March 5, 2021 4:18 PM

- 2nd Amendment
 - Gun Law restrictions
 - Speeches
 - "To preserve liberty it is essential tat the whole body of the people always possess arms, and be taught alike, especially when young, how to use them." - Richard Henry Lee
 - "The great object is that every man be armed . . . Everyone who is able may have a gun." - Patrick Henry
 - "The advantage of being armed . . . The Americans possess over the people of all other nations . . . Notwithstanding the military establishments in the several kingdoms of Europe, . . . carried as far as . . . the will bear, the government . . . to trust the people with"
 - 872 - Alfred the Great requires nobles and peasants to be armed
 - 1181 - Assize of Arms - requires all freemen 15-40 to be armed and checked twice per year to ensure they are armed
 - 1253 - Assize of Arms - requires all freemen and serfs 15-60 to be armed
 - 1285 - Edward I - all that can afford it should keep bows and arrows
 - 1369 - The King orders the sheriff of London to practice with weapons during the holidays
 - 1511 - Henry VIII promotes longbow ownership and practice in their homes: "use and exerccyse shootyng in longbowes and also have a bowe and arrowes contynually" "That the subjects which Protestant may have arms for their defense suitable to their conditions. . ." - English Bill of Rights
 - ★◦ United States v. Miller (1939)
 - Gun restrictions do not violate the 2nd Amendment
 - ★◦ District of Columbia v. Heller
 - Citizens have an individual right to keep and bear arms in an area under federal control
 - ★◦ McDonald v. Chicago
 - "Keep and Bear Arms Incorporated" to the states
 - Other things
 - The amendment simply limits congress
 - The amendment does not grant a right
 - The right already existed prior to the Constitution
 - It is a right protected not a right granted
- Civil Liberties and the Response to Terrorism
 - 9/11 Court Cases
 - ★◦ Rasul v. Bush (2004)
 - Determined that captured foreign terrorists had some civil rights
 - ★◦ Hamdi v. Rumsfeld (2004)
 - Captured prisoners and what to do with them (Geneva conventions)
 - ★◦ Hamdan v. Rumsfeld (2006)

Week 6

March 8, 2021 4:05 PM

- Congress
 - History of Congress
 - Articles of Confederation
 - Powers and Limitations (The most power out of all the powers)
 - They designed a system in which legislation would move slowly
 - The status quo is defended and cannot be changed overnight
 - Makes it difficult for one group to get its way
 - 1789-1900 Congress dominates
 - 1900 - Congress and Presidency compete
- Two houses of Congress
 - Names & Usage
 - Congress - both chambers together
 - Senator - member of the Senate (100)
 - Congressman - member of the House of Representatives (435)
- Senate Representation and House Apportionment
 - Originally, 65. One representative for 30,000 people
 - 1929 - number of representatives frozen at 435
 - Today, 435. One representative for 700,000 people
 - Following the decennial census, Congress reapportions the House seats
 - Faster growing states gain, slower growing may lose
 - After reapportionment, State Legislatures redraw district lines to reflect shifts in population
 - How do we determine the location of each representative's constituency?
- Reapportionment and Redistricting
 - Reapportionment - reassigning the 435 House seats to the states
 - Redistricting - redrawing the state's Congressional districts
 - ★ ◦ Baker v. Carr (1962)
 - You must have equal population within the state's districts (not between states)
 - Malapportionment - improper balance between districts
 - Gerrymandering - consciously drawing district lines to favor something
 - The Justice Department since the 1980s has required several states to draw minority-majority districts
 - ★ ◦ Shaw v. Reno (1993)
 - Racial gerrymandering
 - How can one draw a district line to favor something?
 - Splintering - dividing up and diluting a strong group to deny it the power to elect a representative
 - Packing - concentration of a group in a single district to "waste" their votes in large majorities
- Structure of Congress
 - Four systems are dominant in this structuring:
 - ★ ◦ The Constitution - provides leadership
 - Speaker of the House
 - Most coveted position in the House
 - Comes from majority party
 - President of the Senate (Vice President)
 - Office violated separation of powers

- Cannot debate
- Cannot vote except to break ties
- President Pro Tempore. Currently Senator Patrick Leahy

★ ▪ The Party

- Structures operations on floor of the House and partisan interest in Congress
- The Political Party
 - ◆ Floor Leader
 - ◇ Majority and Minority
 - ◇ Leads the Party on the floor
 - ◇ Most powerful position in the Senate
 - ◇ Chief spokesman for the Party
- Party Whip
 - ◆ Majority and Minority
 - ◆ Keeps the Party voting together
 - ◆ Estimates votes on controversial issues
 - ◆ Persuades members to vote alike

★ ▪ The Caucus

- Caucus/Committee
 - ◆ Assign party members to committees
 - ◆ "Committee on Committees" - Republican
 - ◆ "Steering Committee" - Democrat
 - ◆ Schedule legislation
 - ◇ "Policy Committee"
 - ◆ Provides funds and advice for election campaigns
 - ◇ "Republican Senatorial Committee"
 - ◇ "Democratic Senatorial Campaign Committee"
- Caucus
 - ◆ Sort of in-house interest groups
 - ◆ Meetings advance individual interest groups
 - ◆ Rivals the parties in formulating policy and representing interest
 - ◆ Growing in influence - more flexible than party
 - ◇ "Congressional Black Caucus"

★ ▪ The Committee

- Structures workload of Congress
- "Congress in session is Congress on display; Congress in committee is Congress at work" - Woodrow Wilson
- Committee appointments
 - ◆ Committee chairs chosen by seniority
 - ◆ A senior member in the majority party is usually the chair
 - ◆ Membership in a committee is determined by party caucus
- Committee Responsibility
 - ◆ Collect Information
 - ◆ Draft and Report Legislation
- Types of Committees
 - ★ ◆ Permanent Committees - 19 in House; 16 in Senate
 - ◆ Important House Standing Committees
 - ◇ Ways and Means - collects revenues
 - ◇ Subcommittees - specialize in a certain area within a standing committee
 - ◇ Select Committee - temporary and limited in focus
 - ▶ Often investigative
 - ◇ Joint Committee - House and Senate meet together
 - ▶ Often only engaged in fact-finding and public problems and

policy issues

◇ Conference Committee - reconciling differences in legislation

- How do Congressmen and Senators Vote?
 - Delegate model - please the people
 - Organizational - please colleagues
 - Trustee - vote on moral conscience
 - Descriptive - bad juju (gender, race)
 - Politico - political
 - Collective - vote based on country as a whole
- Details of Congress Qualifications & Terms
 - ★ ○ Senate:
 - 9 years of U.S. Citizenship
 - Minimum of 30 years of age
 - Residency - "when elected, be an inhabitant of that State in which he shall be chosen"
 - 6 year term (1/3 elected every 2 years)
 - ★ ○ House:
 - 7 years of U.S. Citizenship
 - Minimum of 25 years of age
 - Residency - "when elected, be an inhabitant of that State in which he shall be chosen"
 - 2 year terms (full House elected every two years)
- Details of Congress Rules & Procedures
 - "Each House may determine the Rules of its Proceedings"
 - Removal: Article 1, Section 5, pt. 2- Congressmen can not be impeached
 - Senatorial courtesy - blue slipping (tradition)
 - Convening & Adjourning
 - The President can convene a special session of Congress and can adjourn congress if it is not on the calendar
 - The Frank
 - Members of Congress permitted free use of the mail for official business
 - Congressional immunity
 - Cannot be held liable for a statement made on the floor, but the House/Senate Ethics Rules may punish inappropriate behavior
 - In some cases, members are exempt from arrest
 - Restrictions
 - Cannot hold any other federal position while serving in Congress
 - Cannot hold an office that was created during their term
 - Pay increases become effective after the next congressional election - 27th Amendment (1992)
- Job of Congress: Legislation
 - Congress can pass....
 - Bills
 - Revenue bills
 - Public bills
 - Private bills
 - Resolutions
 - Simple resolutions
 - Concurrent resolutions
 - Joint resolutions
- The Legislative of Process
 - Introduction
 - Member of Congress
 - Recommendations
 - HOPPER - bills are dropped in it

- CLERK - in the Senate
 - Parliamentary
- Committee Action
 - Presiding officer refers bill to committee
 - Committees with "jurisdiction"
- Multiple Referral/ Since 1995, sequential - goes from one committee to another
 - Subcommittees
 - Hearings
 - Sunshine laws: In public
 - Full committee may "amend bill" during "mark up"
 - "Committee bill" - they create their own bill
 - Reported to the Floor "Order the Bill" - back to the floor with any changes
 - Most bills die in committee
 - Discharge petition/motion - If stuck in committee
 - Rules Committee
 - ◆ Three types of rules:
 - ◇ Closed Rule - limits
 - ◇ Open Rule - no limits
 - ◇ Restrictive Rule - somewhere in between
- Floor Action in the House
 - Committee of the Whole
 - Quorum - Normally 218, here, 100
 - Committee sponsor - Organizes discussion
 - No rule limiting debate
 - Unanimous consent agreement
 - ★▪ Filibuster - the bill dies if discussed for too long
 - ★▪ Cloture rule - to break a Filibuster
 - Voting
 - ★□ Voice vote - anonymous
 - ★□ Division vote - anonymous
 - ★□ Teller vote - anonymous
 - ★□ Roll-call vote - recorded
- Test notes:
 - ★○ The President has 10 days excluding Sunday to act on a bill
 - ★○ Do we have a representative system of government or a direct democracy? We have representative system
 - ★○ Decisive or deliberative Congress? Deliberative, we want government to move slowly

Week 7

March 15, 2021 3:58 PM

Unit Test 2

Begins-----

- The Presidency
 - "A people that values its privileges above its principles soon loses both"
 - "I have one yardstick by which I test every major problem - and that yardstick is: Is it good for America?"
- Inventing the Presidency
 - Articles of Confederation - there were presidents (administrative not executive)
 - Constitutional Convention
 - Original Virginia Plan
 - Council has veto power
 - Another idea...
 - That the president would have a 7 year term
 - Veto power
 - Impeachment - indictment
 - New Jersey Plan - countered and suggested an executive committee could be removed by the majority of state governors
 - Alexander Hamilton
 - Treaty power
 - Veto power
 - Pardoning power
 - Commander and chief
 - Eventually. . . Electoral College
- ★ • Qualifications for the Office
 - 35 years of age
 - Theodore Roosevelt - youngest to take office
 - John F. Kennedy - youngest elected to the office
 - Joe Biden - oldest elected to office
 - Residency - 14 years
 - It does not necessarily have to be right before the term
 - Natural born citizen
- Terms of the Office
 - Constitutional Term Limits
 - Initially there was no limit stipulating how long one could serve as President
 - 22nd Amendment changed that: 2 terms - total of 10 years
 - Washington set the precedent of serving only two terms
 - Roosevelt - fourth term
 - Natural Term Limits
 - What happens when the President dies?
 - 8 - total deaths
 - 4 - assassinations
 - The Vice-President is one heart beat away from the President

Week 8

March 17, 2021 3:59 PM

- Those that died in Office
 - ★ i. William Henry Harrison - (too cold) the first President to die in office
 - ★ ii. Zachary Taylor - (heat of July)
 - ★ iii. Abraham Lincoln - (assassinated by John)
 - ★ iv. James Garfield - (assassinated by Charles)
 - ★ v. William McKinley - (assassinated by anarchist)
 - ★ vi. Warren G. Harding - (heart attack)
 - ★ vii. Franklin Roosevelt - (natural causes)
 - ★ viii. John F. Kennedy - (assassinated by Lee Oswald)
 - Ronald Reagan - (almost assassinated by John Hinkley) March 30, 1981
 - John Tyler - (Harrison) the first Vice-President to succeed a president that died in office
- 25th Amendment and Federal Law
 - Presidential Succession Act of 1947 - Truman
 - Position:
 - ☐ Vice-President
 - ☐ Speaker of the House
 - ☐ President pro tempore of the Senate
 - ☐ Secretary of State
 - ☐ Secretary of Treasury
 - ☐ Secretary of Defense
 - The first Vice-President to take office under . . . was Gerald Ford, . . .
 - The State of the Union Address
 - ★ ○ The Presidential term expires at noon on the 20th day of January according to the 20th Amendment
 - What if the President is incapacitated? - 25th Amendment
 - The VP becomes the Acting President - it would take a majority of the cabinet and the VP to agree that the President is incapacitated
 - A 2/3 vote in both houses can declare the President unfit and the VP remains Acting President
 - As soon as it is determined that the President is A-OK, He reassures his position
 - When Ronald Reagan was incapacitated he appointed Bush as Acting President for only a few hours
 - "For a short while today, It will be President Cheney" - July 21, 2007
 - If the Vice-President dies or resigns, the President appoints a Vice-President subject to confirmation by both houses of Congress
 - Also if the Vice-President became President, he would appoint a new Vice-President subject to confirmation
 - Vice-President Spiro Agnew (1969-1973) kicked out for bribery
 - Vice-President Gerald Ford (1973-1974) became the new VP
 - Nixon resigned in 1974, and Ford automatically became President - becoming the first non-elected President in history
 - Vice-President Nelson Rockefeller (1974-1977)
 - Neither the President nor the Vice-President were elected by the people
- Getting to the Office of President
 - The President should be chosen directly by voters and not appointed
- Original Electoral College
 - Electors meet in the states and vote for two people

- ★ ○ Originally, the Constitution recognized 2 votes for President
- At least one person voted-for cannot be from the same state as the Elector
- The person with the most votes becomes President
- The person with the second most votes becomes Vice-President
- Problem: What if the top vote getter is from one party and the next-highest vote-getter is from the other party? Is that possible? Yes

Week 9

March 22, 2021 3:59 PM

- Election of 1796
 - John Adams (Federalist) 71 electoral votes
 - James Madison (Democratic Republican)
 - House of Representatives chooses the President by ballot (from the top vote getters)
 - States vote as a delegation, not as individual members
 - 2/3rds of the states need to be present for quorum - with a majority vote (of the states) being necessary to choose the President
 - If there is a tie, Second-highest vote-getter is Vice President
- Election of 1800
 - Thomas Jefferson 73 electoral votes
 - Alexander Hamilton 73 electoral votes
- Present Electoral College
 - 12th Amendment (1804)
 - Ballots specifically indicate which candidate was voted for President and Vice-President
 - If no electoral majority, top 2-3 (based on highest numbers) . . . House of Representatives
- Election of 1824
 - John Quincy Adams 84 Electoral votes
 - Andrew Jackson 99 Electoral votes
- Powers of the Office
 - Commander-in-Chief - the President is a civilian
 - Chief Legislator - President Reagan signs the Economic . . .
 - The President can adjourn Congress if there is no date on the calendar
 - The President does control veto power
 - Chief of State - the President sends and receives ambassadors
 - Chief Diplomat - the President can sign treaties
 - Chief Executive
 - "The executive power shall be vested in a President of the United States"
 - "He shall take care that the laws be faithfully executed"
 - "execute" = to follow through, to carry out, to punish
 - Chief Law Enforcement Officer
 - Pardons and reprieves
 - Appoints judges
 - Recommends legislation
 - Department of Justice
 - Attorney General
 - Department of Justice - Created in 1789, Judiciary Act
 - Attorney General
 - First Attorney General was Edmund Randolph (VA plan)
 - 1870 - Became an executive department
 - Today world's largest law office
 - Chief Administrator
 - Charge over the Executive Branch
 - Cabinet - 15 department heads
 - Appoints few people to departments
 - Competes with Congress that creates and funds the departments
 - Members of the cabinet tell the President what they want more so than him telling them what he wants

- 15 executive departments
 - Members of the Cabinet are often the President's closest confidants
 - Line of succession
 - Order in which the departments were created
 - Cabinet heads take the title of Secretary except
 - Head of Justice Department - Attorney General
- Executive Office of the President (EOP)
 - Within the EOP there are 13 entities including:
 - Office of Management and Budget (OMB)
 - National Security Council (NSC)
 - White House Office (WHO)
 - Circular Structure
 - ◆ President
 - ◇ Cabinet Secretaries
 - ◇ Assistants
 - Pyramid Structure
 - ◆ President
 - ◇ Chief of Staff
 - ▶ Assistants
 - Ad Hoc Structure
 - ◆ President
 - ◇ Task Forces
 - ◇ Advisors
 - ◇ Friends
 - ◇ Committees

Week 10

March 26, 2021 4:00 PM

- Power of Presidential Persuasion
 - Three Audiences:
 - Washingtonians (Swamp) - fellow political leaders
 - Partisan Grassroots - Party and officeholders outside D.C.
 - Same ideological orientation/sense of purpose
 - The Public - issue oriented
 - Personal interest is important
 - Not necessarily political
 - The Bully Pulpit - started by Theodore Roosevelt
 - Not meant to be abusive
 - Bully - to exhort, instruct, inspire
 - Persuasion and Congress:
 - Legislative agenda - a popular President is more likely to get his program through Congress
 - Congressional re-elections - Popular Presidents don't need other congressmen re-elected
 - Persuasion through No:
 - Veto (no line item veto)
 - Executive Privilege
 - ..until Watergate
 - Site of Democratic National Committee office in 1972 which was burglarized
 - ..Nixon refused
 - ★ ▪ U.S. v. Richard Nixon
 - The Court granted that there was a limited executive privilege in areas of military or diplomatic preference "the fundamental demand..." ..of law in the fair administration of justice
 - Impoundment: money appropriated by Congress to an area of the executive branch but withheld by the President
 - Nixon used this like a line-item veto
 - Congress overrode Nixon's veto of the Federal Water Control Acts Amendments (1972)
 - Congress in turn passed the Congressional Budget and Impoundment Control Act established the Congressional Budget Office (CBO)
- Congress said...
 - The President could impound under two conditions:
 - Deferrals - a delay in spending
 - Rescissions - stop spending completely (45 days if agreed)
 - ★ ○ Train v. New York
 - President must spend the money appropriated by Congress in order that he "take care that the laws be faithfully executed."
- Checks and Balances on the Office
 - Congress
 - Confirmations
 - Override veto
 - Impeachment
 - Executive branch oversight - investigations
 - Refuse proposals
 - Purse strings

- Courts
- Campaigns and Elections
 - Deciding to Run
 - Running, easy, but...
 - Running for office
 - Facing the incumbent
 - Sophomore surge - you stay as long as you don't do anything bad
 - Open seat - a race where there is no incumbent
 - Campaign finance laws
 - PAC - Political Action Committee
 - The Beginning, 1867
 - 1906 - Tillman Act
 - 1971 - Federal Election Campaign Act
 - 1972 - Watergate
 - 1974 - Federal Campaign Reform Law
 - FEC - Federal Election Commission
 - Limits donations
 - Limits corporate and union donations
 - ★ ○ Buckley v. Valeo - 1976
 - Allowed the PACs to engage in independent expenditures
 - Allows the campaigns to receive "soft money"
 - Soft money is money that is spent by a political party
 - Struck down limits on independent expenditures
 - Bipartisan Campaign Finance Reform Act - 2000
 - Raised the limit on individual donations
 - Sharply restricted independent expenditures
 - ★ ▪ McConnell v. Federal Election Commission - 2002
 - ★ ▪ Citizens United v. Federal Election Commission - 2010

Week 11

April 7, 2021 4:00 PM

- Campaigns and Elections - continued
 - Super PACs
 - Can spend unlimited amounts of money
 - Limits on spending
 - Individual PACs = \$2,700
 - Multiparty PACs = \$5,000 per candidate or \$15,000 to a national party
 - New Sources of Money
 - 527s
 - Soft Money expenditures
 - No Coordination
 - ◆ The Media Fund = Democrat
 - ◆ Progress for America = Republican
 - The Nomination Stage
 - In the past, party leadership
 - Today, the primary
 - Closed
 - Open
 - Top Two = "Jungle Primary"
 - Caucuses
 - State Primary Elections
 - March or later
 - IA, NH, SC = January or February
 - State delegates - determined by the number of party members from each state
 - Convention Season
 - June-September
 - 4-5 days
 - Platforms <-- Planks
 - Why?
 - ◆ Tradition - official unveiling
 - General Elections and Election Day
 - General Election Campaign - August-November
 - Focus - states and demographics that have not made up their minds
 - Debates - what are the risks?
 - ◆ Slip of the tongue
 - ◆ Stock speech
 - ◆ Appearances
 - Television
 - ◆ Spots - paid advertisement
 - ◆ Visuals - making the news
 - Midterms
 - ◆ The coattail effect - unknown to be effective
 - ◆ Reversals
 - Campaigns today
 - Parties have limited control
 - What do I need?
 - Media Consultants - create advertisements and buys air-time for you
 - Direct-mail firms
 - Polling firms

- Political Technology firms
 - Large amounts of money
- Presidential vs. Congressional
 - Size
 - Competitive
 - Turnout
 - Electorate
- Running for President
 - Getting started
 - ◆ Float your name out there
 - ◆ Give speeches
 - Organization
 - ◆ Hire advisors
 - Fighting the War
 - ◆ Incumbents defends challengers' attack
 - ◆ Set the tone
 - ◇ Positive campaigning - build yourself up
 - ◇ Negative campaigning - attacking the competitors plans
 - ◆ Develop a theme - we have short attention spans
 - ◆ Judge the timing
 - ◆ Choose a target voter
- Congressional Elections
 - Incumbents have extraordinary advantage
 - Districting

Week 12

April 12, 2021 4:00 PM

- Campaigns and Elections - continued 2
 - Campaigns Today - continued
 - Staying in office
 - Party leaders have very little influence today
 - Differences in Primary and General Campaigns - there can be big differences
 - Money
 - Presidential = Private and public
 - Congressional = mostly private
 - Factors in winning
 - Political affiliation can make a difference
 - Economy
 - Character
 - Overstated factors? Many
 - Voting
 - Prospective
 - Retrospective
 - So why do we do campaigning?
 - It re-inspires party loyalties
 - How candidates apply pressure and how they handle pressure
 - We judge the candidates
- Bureaucracy in America
 - Bureaucracies have been around for a long time
 - Egypt - Scribes
 - Rome - Publicans
 - Europe
 - Father of Public Administration: Lorenz von Stein (1815-1890)
 - President Woodrow Wilson: Father of United States Public Administration (Progressivism)
 - Bureaucracy Defined
 - Bureaucracy is an administrative group of nonelected officials charged with carrying out functions connected to a series of policies and programs
 - What does it do?
 - Provides day to day services
 - Public Administration
 - ◆ The implementation of public policy
 - ◆ Implies trained servicemen
 - American Bureaucracy is unique:
 - Separation of Powers:
 - Bureaucracies are executive in nature
 - Congress creates, funds, and has oversight over them
 - Federalism:
 - Federal agencies share functions with state and local agencies
 - Adversarial Culture:
 - Many decisions made by agencies are challenged in court
 - Size of American Bureaucracy:
 - 1798 - Started with 3 departments (Foreign Affairs, War, and Treasury) and a few hundred employees
 - Today the Executive Branch employs:

- approximately 4,000,000 total
 - 24,000 in Judiciary
 - 38,000 in Legislature
 - Cost of the American Bureaucracy:
 - The cost on average to the taxpayers for the hiring of one bureaucrat over the course of his career will currently be approximately \$4,270,000
- History of the Bureaucracy
 - Early controversies
 - Hiring and Firing
 - Can the President fire someone who was hired through appointment with Senate confirmation?
 - Yes, without Senate approval!
 - Patronage - the use of government positions to reward individuals for their political support
 - Tenure of Office Act - repealed in 1887
 - Forbade the President from removing any executive official who had been confirmed by the Senate without the Senate's permission
 - Andrew Johnson dismissed Secretary of War...
- Pre-Civil War Bureaucracy
 - Total # of federal employees increased 8x
 - Patronage shifted from merit (self-imposed by the President) to spoils
 - "To the Victor belong the spoils"
- Post-Civil War Bureaucracy
 - Shift in Emphasis from regulation to service:
 - Departments of Labor
 - Department of Agriculture
 - Department of Commerce
 - The idea was to promote not regulate the economy - a laissez-faire approach
- The Modern Bureaucracy
 - Modern Bureaucracy is the result of....
 - WWI - the new income tax (16th A.) was used to expand the bureaucracy during this time
 - Depression - the New Deal increased goes to programs to deal with the crisis - created government jobs
 - WWII - heavy use of income tax during this time
 - Welfare State - LBJ's "Great Society" Program
 - "This administration today, here and now, declares poverty in America" - Lyndon Baines Johnson

Week 13

April 16, 2021 4:05 PM

- Bureaucratic Structure
 - Departments provide major services to the government
 - The President has more control over departments through a part of the Executive Branch
 - A bureau is a subset of a government department
- Agencies or Commissions
 - Agencies tend not to be part of, or associated with Departments (quasi-independent)
 - Usually created with one function
 - Agency under a director, a commission is under a board
 - Executive agencies
 - NASA - created as an Independent Executive Agency not under the Defense Department
 - CIA - Central Intelligence Agency
 - Regulatory Agencies
 - Some are part of a department such as the FDA which Human Services or OSHA which is part of the Departments
 - Government Corporations
 - Quasi-business that sells a service and acts like a private corporation but stock is not sold on the open market
 - They can acquire, develop, and sell real estate
 - Not dependent upon annual appropriations - often charge for services provided
 - TVA - Tennessee Valley Authority (one of the few that succeeded)
 - Amtrak - National Railroad Passenger Trains (have failed)
 - USPS - United States Postal Service (is failing)
 - Increased Discretionary Authority
 - Bureaucracy makes decisions independent of law
 - Evidence of bureaucracy having discretionary authority - the making and use of regulations
 - Farm subsidies
 - Education subsidies
 - And when discretionary authority goes wrong...
 - Regulation enforcement
 - ★ ◻ Ruby Ridge - 1992
 - ◆ Made sawed-off shotguns 2-inches too short (disaster ensued)
 - ★ ◻ Waco - 1993
 - ◆ Cult
- Reforming the Bureaucracy
 - ★ ◻ Pendleton Act (1883)
 - Assassination of Garfield 1881
 - ★ ◻ Hatch Act (1939)
 - Forbids bureaucrats from campaigning for candidates
 - ★ ◻ Sunshine Laws
 - Open government
 - Open meetings
 - ★ ◻ Merit Systems Protection Board (1978)
 - Protects whistle-blowers
 - ★ ◻ Iron Triangle
 - Congressional Committee
 - Agency
 - Interest
 - ★ ◻ Authorization - when Congress decides how much money is going to go to Bureaucracy

Week 14

April 21, 2021 4:00 PM

Final Exam

Begins-----

- Law and the Judiciary
 - Revealed Law
 - Law given by God in the Scriptures (His will)
 - God's law cannot be broken, and it is always binding
 - God demonstrates the law in commandments
 - Natural Law
 - Law that is discernible by all men as image-bearers of God
 - This law is written on Man's heart and he is without excuse (Romans 1:20)
 - The law is revealed through man's conscience (Romans 2:14-15)
- Sir William Blackstone
 - "This will of his maker is called the law of nature"
 - "This law of nature, being coeval with mankind and dictated by God himself is of course supernatural"
- What is Higher Law? When revealed law and natural law come together
 - We can know about God through Nature
 - We know God through His Bible and Christ
 - God has revealed elements of his will to the law; often this is referred to as "the higher law"
 - This law is unchangeable
 - Man's laws should be based on God's laws
- Positive law
 - Law made by man for the purpose of ruling man
 - Command based on relationship between ruler and the ruled
 - Man-made with only human will as its basis
 - To be effective, man's law must be in sync with revealed law
 - Positive law is changeable
- Common Law
 - Law by judges sometimes called "case law" or "bench law"
 - Based on historical custom and tradition - tends to be unwritten
 - It is law because "that's the way it's always been done"
 - It is a bench-made law by judges rather than a fixed body of rules like modern civil law codes
 - Operates off the principle of stare decisis "let the decision stand"
- Statutory Law
 - Law made by legislatures or some authoritative body
 - It is codified and written
- Equity
 - Invented when common law did not render an adequate remedy
 - Created to provide compensation or action not covered by common or statutory law
 - Attempts to make restitution
 - Remediation is usually in the form of a writ (Issued by a court)
 - Injunction - writ issued by a court to stop an action
 - Court order - writ issued by the court to compel someone or a group to act
- Constitution Law
 - Law based on a written document
 - Considered our "fundamental law"
 - In the United States our Constitution was derived from:

- Royal Charters from the king
 - Compacts and Covenants
- Compacts: the people agree to come together to form government. No one forced them to do it
- Administrative law: Law made by bureaucratic agencies
- Agencies receive the law from Congress
 - Statutory law or “statute”
- Agencies then make rules and regulations we follow
 - ★ ○ Marbury v Madison: Judicial Review
 - Federalists on their way out, so they pack the courts with 59 Federalists justices.
 - John Marshall the outgoing sec of state delivers these appointments before becoming the chief justice of the supreme court. The new secretary of state was the James Madison (Democratic Republication). They refuse to deliver the remaining 17 appointments (like William Marbury).
 - Marshall, who created the problem as Secretary State, now must solve the problem as supreme court justices.
 - Should the appointments have been delivered? Yes
 - But I don’t have the ability to order you to deliver these. That would be unconstitutional.
 - If people are going to accept this verdict of no mandamus, then they are accepting that the judiciary has the power of judicial review! **Brilliant.
 - Strikes down Mandamus: (1789 Judiciary Act creates the district and appellate court system) is wrong
 - Gives up a cap gun to capture atomic weapon
- First Court declaration of Executive Action being unconstitutional:
 - ★ ○ Little v Barreme, the Flying Fish case
 - US Navy captain held liable for following an illegal order

Week 15

April 28, 2021 11:13 AM

- Constitution and the Judiciary

The only federal court the constitution requires is the Supreme Court- National Jurisdiction
Only court in the constitution is the Supreme Court. The rest are created by Congress.
All other Federal courts are created by Congress.

Congress has created two kinds of lower Federal Courts that handle cases that need not go to Supreme Court... *because of separation of powers*.

Two types: Constitutional and Legislative Courts

Constitutional Court

1. Authority rests in Article III of Constitution. Called **Article III Courts**

- Courts of Appeals—11 geographic-based, 1 in D.C. and one for the federal circuit, total of 13
- District courts—94 in 50 states, D.C. and Puerto Rico along with their subordinate bankruptcy courts.
- Court of International Trade-1980. Civil action resulting from Customs or Int. trade laws.

2. **Original Jurisdiction:** "to say the law" the right of a court to hear a case— where the case originates. two types

The Constitution outlines the jurisdiction of the federal courts in Article III, sect. 2.

Supreme court has original jurisdiction in cases regarding

- Ambassadors
- Ministers and consuls
- State shall be a party

Very clearly spelled out in the Constitution

Must amend the constitution to expand the original jurisdiction of the Supreme Court

Judicial branch should be the weakest

State vs State= exclusively Supreme Court jurisdiction

- Disputes between the States
 - "One type of dispute, disputes between states, the Court's jurisdiction is not only "original," it is exclusive"
 - Appellate jurisdiction - the right of a court to hear a case on appeal from a lower court
 - "In all other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions and under such Regulations as..."
- The Judges
 - Appointed for life during "good behaviour"
 - Impeachable
 - Salaries are protected by the Constitution, not reduced while in office
 - Reside in the district
- Legislative Courts
 - Authority rests in Article I
 - Created by Congress to serve some political function - "To constitute Tribunals inferior to the Supreme Court;" Art. 1, Sec. 8

- Judges
 - They are appointed for a fixed time (usually between 10 and 15 years)
 - Impeachable
 - Salaries are set by Congress, no salary protection
- Section of Judges
 - Senatorial Courtesy - Judges must be approved by that state's senators for *district courts*, not constitutional
 - Litmus Test - President attempts to find judges compatible to certain political beliefs; some downplay of professional qualifications
- State courts have the heavier caseload
- Most cases will go to state courts
- Some cases can be tried in either court
 - Dual Sovereignty - both federal and state laws have been broken
 - State Cases Appeal To The Federal - Substantial federal questioning
- Rodney King case - police officers charged in California state court with assault for beating
 - Cast take to Federal court for violation of civil rights as a US citizen
 - 2 out of 4 defendants were evicted for violation of civil right
- Diversity Cases Jurisdiction - Civil
 - Permits a federal court to hear case involving questions of state law if the opposing parties are citizens of different states - ART. III, Sec. 2- "...Between citizens of different states..."
 - To enter federal courts under diverse jurisdiction litigants must also... Amount set by Congress (\$75,000)
- Federal Judiciary
 - Article III Courts
 - District Courts
 - These courts carry the workload for the federal judiciary (90% of federal cases are heard here)
 - Most federal cases begin in district court
 - Also called Trial Courts or Lower Courts ONLY PLACE WHERE TRIALS OCCUR
 - There are 94 district courts in the US
 - ◆ 90 in the states
 - ◆ 1 in DC
 - ◆ 3 in territories
 - 13 Appellate Courts exist (1 for each region)
 - 11 in states
 - 1 in DC and 1 Federal Circuit
 - The highest court for most federal cases
 - No trial or jury
 - Supreme Court
 - How can a case reach the supreme court?
 - ◆ Original Jurisdiction - Art. III, Sect. 2
 - ◆ Appellate Jurisdiction
 - ◇ SC exercises this appellate jurisdiction only in areas the Congress permits
 - ◇ Congress could change or eliminate the appellate jurisdiction
 - ▶ Rarely used but powerful
 - ▶ Illegal immigration Reform and Immigrant Responsibility Act of 1996
 - Cost of appeal is high, can be lowered by:
 - ◆ In forma pauperis (plaintiff heard as pauper with costs paid by government such as is common with jailhouse lawyer appeals)
 - Term: Writ of Certification
 - ◆ U.S. Court of Appeals requests instructions from the Supreme Court on a

point of law never before decided

□ Term: Standing

- ◆ A legal concept that refers to who is entitled to bring a case
- ◆ Not a constitutional requirement
- ◆ Article III - "cases and controversies" Thus it will not hear hypothetical issues
- ◆ Conflict must be genuine and not too early or too late (moot)
- ◆ Generally:
 - ◇ Adversarial
 - ◇ Personal Harm
 - ◇ Sovereign immunity
 - ▶ A person cannot sue the federal government
 - ▶ A state cannot be sued in federal court w/o its consent (11th Amendment)
 - ◇ Legal v. Political Questions
 - ▶ Legal questions - the court decides
 - ▶ Political questions - legislature or people voting
 - ▶ Malapportionment - 14th Amendment (equal representation)

Week 16

May 3, 2021 4:00 PM

- Route to the Supreme Court
 - Justices: 9, Judiciary Act of 1869
 - Court sessions:
 - Session (October - April)
 - Nearly all rulings held in June
 - SC chooses which cases it will hear
 - File a petition for a writ of certiorari
 - Opposing side also files a brief in opposition stating reasons why the case should not be heard
 - Justices hold private conference to vote on whether to hear a case
 - Chief Justice speaks first and gives reasons for all cases then other justices speak in order of seniority
 - Rule of Four - petition granted if 4 justices want to hear the case
 - Voting is secret but announcement is made immediately
 - Why grant a hearing?
 - Conflicting Decisions - Hazelwood School
 - ★▪ District v. Kuhlmeier
 - ★▪ State Court Decisions that... Constitution - California v. Gree
 - Briefs submitted
 - Briefs are legal arguments on major issues of the case
 - *Amicus curiae* briefs (Lat. "friend of the court")
 - Justices and clerks read the briefs and all other information pertaining to the issue
 - Oral arguments
 - Lawyers from each side present their case
 - The arguments are held in public
 - Layers are given 1/2 hour to answer Justices' questions
 - Light system used to indicate time remaining
 - 5 minutes left (white); stop immediately
 - Conference
 - Justice hold private conference then vote
 - Justices shake hands before voting to show harmony
 - Not even clerks are allowed here
 - Newest Justice gets what they... keeps the door
 - Chief Justice votes then they vote by seniority
 - If the chief justice is in the majority he will write the opinion of the Court or assign it to another majority justice
 - Those in the minority will often write dissenting opinions either as one opinion or as individuals
 - Those in the majority are free to write their own opinion stating their explicit opinion (occurring opinion)
 - Justices then circulate their opinions - this may change from minority to majority
 - Opinions issued - "Opinion Day"
 - On the date the Court announces its opinion:
 - Justices meet the press and public in the SC chambers
 - Justices read the decisions one by one
 - Votes can even change here
- No Enforcement Power

- "Marshal has made his decision, now let him enforce it." - President Andrew Jackson
- President
 - Appointment of Judges
- Congress
 - Controls confirmation
 - Creation of all courts below the Supreme Courts
 - Size of the Court
 - Appellate Jurisdiction
 - Amending the Constitution
 - Legislation

Bush v Gore

May 5, 2021 4:16 PM

- What is an Inversion? When someone wins the electoral college but loses the popular vote
- Inversions:
 - 1824: John Q. Adams and Andrew Jackson
 - 1876: Rutherford B. Hayes and Samuel Tilden
 - 1888: Benjamin Harrison and Grover Cleveland
 - 2000: George W. Bush and Al Gore
 - 2016: Clinton v. Trump
- 2000 Election: The Major Players
 - Graduate: Harvard, 1969
 - Served in the Vietnam War (reporter)
 - Elected to U.S. House of Rep. 1976; Senate 1984
 - Vice-President for Bill Clinton
 - Candidate for Pres., 1999
- Son of George H.W. Bush, 41st President
 - Graduate: Yale, 1968
 - Pilot, Texas Air National Guard
 - M.B.A: Harvard, 1975
 - 46th Governor of Texas
- National Issues:
 - Presidential Candidates: Candidates are seeking a majority (270 out of 538) of the electoral votes
 - Electoral College - 538 electoral votes
 - Constitution requires the states (legislatures) to determine the method for selecting their own electors
 - Electors cast their votes (at their state house), by deadline of December 18
- The Congress:
 - Might have to elect a president if the Electoral College cannot choose a majority candidate by the December 18
 - If no president is chosen by January 20th, then Speaker of the House becomes acting president until Congress elects the president
- The Federal Courts - Appellate and Supreme Court
 - Can hear state election case if "federal question is involved"
 - Key idea: Bush argued that lack of standards for the voter recount (Florida) violated Equal Protection Clause of 14th Amendment
- State Issues
 - Governor - Serves on the Election Canvassing Commission (Jeb Bush)
 - Governor files "Certificate of Ascertainment" in National Archives before December 18
- The Florida Legislature
 - Makes laws governing electors
 - Holds the power to determine the slate of electors
 - Key Idea: Bush argued that FLSC was legislating from the bench when it extended deadline and ordered recounts
- Secretary of State for Florida - Katherine Harris
 - Chief Election Officer
- Election Canvassing Commission
 - Charged with certifying election results
 - They did (November 26), said Bush won by 537 votes. Given Florida's 25 electoral votes

- County Canvassing Board: Key Issue*
 - 2000 election: As counties were recounting (manually) they were using different standards in determining the "intent of the voter"
 - Florida Supreme Court: Heard 4 cases
- Protest and Contest Phase of the election:
 - Challenges the "accuracy" or "correctness" of the vote - 2000 Election Glossary
 - This happens before the election is certified
- Allows the candidates to request country recounts
 - In the case of an error... It goes to the county canvassing board
 - In the case of voter fraud... It goes to the circuit court
- What happened in this election? Probably human error
- Gore Protests Vote in 4 counties: Palm Beach, Miami Dade, Volusia, Broward: "Dimpled Chad" enters the U.S. Vocabulary
 - 3 out of 4 counties used it
- Gore requests manual recounts, which will not be done by Nov. 14 deadline
 - Gore asks for extension of deadline
 - Bush counters saying there is no reason, only recounts when machine error is proved
- Per curium - opinion of the court
- Challenged - Nov. 26 - Gore disputes the outcome after the fact
- ★ • Bush v Gore
 - Stop the election