

# CHAPTER TWO

## THE BASIC FEATURES OF THE AMERICAN SYSTEM

# The Basic Features

## These are:

- ❑ National Supremacy within a Federal State
- ❑ Popular Sovereignty and Representative Democracy
- ❑ Constitutionalism
- ❑ Separation of Powers
- ❑ The Free Exercise of Natural Rights
- ❑ Respect of Religion and Humanitarianism
- ❑ The importance of the Polls in Decision-Making

# National Supremacy

- It implies the **subordination** of “state laws” to those of the “Federal Government”;
- Therefore: “The Federal Constitution”, “Acts of Congress” and “Treaties” are considered as being “**the supreme law of the land**”;
- When a problem arises between “Federal” and “State” law, **the matter is settled by “Federal Courts”**.

# Popular Sovereignty and Representative Democracy

- King Louis XIV: “*I am the State*” [meaning that supreme authority, or sovereignty, rested in him];
- Historically, the concept of “*Popular Sovereignty*” implies that the people have the right to reign in the political world as “*the Deity does in the Universe*” [Alexis De Tocqueville];
- Nowadays, **popular sovereignty** implies its exercise by the ‘body of adult citizens’;
- As of “***Representative Democracy***”, it distinguishes between “pure” or “direct” democracy and forms of governments under which “the people rule through chosen delegates and officials”

# Constitutionalism

- Constitutionalism means the ‘addiction’ to Constitutions or fundamental laws;
- American democracy rests upon the expectation that “**lawful conduct**” is the standard to which both governments and men will conform;
- Constitutionalism also implies a distinction between “**fundamental laws**” and ones that are less fundamental [*i.e. statutes, executive orders, administrative regulations, etc...*]
- *These are important but usually are more readily changed than the fundamental ones;*
- *They must, however, conform to the Constitutions.*

# Separation of Powers

- **Charles de Montesquieu**:...*Political power is potentially dangerous; power corrupts; absolute power corrupts absolutely; power must be stopped by power...*
- Constitutional provisions are thus made to **separate the three branches of government**: legislative, executive and judicial.
- Separation of powers is implemented by “**Checks and balances**”: reciprocal means of action that each branch has over the others.

# Separation of Powers

- *“In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; to the end that it may be a government of laws and not of men”* The Constitution of Massachusetts.
- *“All legislative powers herein granted shall be vested in a Congress; The executive power shall be vested in a President; The judicial power shall be vested in one Supreme Court and in such inferior courts as Congress may from time to time ordain and establish’* The Constitution of the United States, 1787.
- This inclusive and exclusive language, coupled with the fact that the powers are set forth in three different articles, **provides the constitutional basis for separation of powers.**

# Natural Rights

- Man possesses certain inalienable rights;
- Belief in natural rights explains the presence of “bills of rights” in American Constitutions;
- The first “**bill of rights**” was adopted by constitutional convention in **Virginia on June 12, 1776**.
- The second was a preface to **Pennsylvania’s constitution** called a ‘**Declaration of Rights**’.
- All the states later added similar features.
- The first ten amendments to the Federal Constitution became known as the “**Bill of Rights**”.
- Basically, these are: “Freedom of Religion”, “Freedom of Speech”, “Freedom of the Press”, “The right to peacefully assemble”, “The right to petition the government for the redress of grievances”, “Freedom from surveillance by public authorities”, etc...

# Respect of Religion and Humanitarianism

- Initially 'Puritans', 'Quakers', 'Catholics' and other dissenters came to the New World in search of religious freedom;
- The early American settlers came from Great Britain and Western Europe where church and state were united;
- But time, experience and growing secularism favored separation;
- Separation of church and state was mandated by the First Amendment;
- Legally, then, the United States is not a "Christian" nation;
- Beyond the legal obligation to respect the freedom of cults and because of religion, humanitarianism (belief in human welfare and social justice) has been a very pronounced issue in US domestic politics (i.e. slavery, slums, child labor, racial discrimination, civil rights, prison cruelties, etc...).

# Decision Making at the Polls

- For Americans, ultimate decisions are made at the “ballot box”;
- Political power therefore flows through ballot boxes;
- Cardinal to American democracy is the belief that government must be based upon the consent of the governed as registered by free men in fair elections;
- The word “ballot” comes from the Italian “ballota”, or little ball;
- Instead of the little balls used in ancient Greece, modern voters use paper ballots and voting machines;
- In the US, elections have become the preferred method for choosing national, state and local officials, whether legislative, executive or judicial, including local sheriffs, judges and coroners.

# Further Reading

## GOVERNMENT OF THE PEOPLE: THE ROLE OF THE CITIZEN

With the drafting of the U.S. Constitution in 1787, the country's Founding Fathers created a new system of government. The idea behind it — quite revolutionary at the time — appears at first glance to be simple and straightforward. The power to govern comes directly from the people, not through primogeniture or the force of arms, but through free and open elections by the citizens of the United States. This may have been tidy and direct as a theory, but in practice it was far from inclusive. Complicating things from the very beginning was the question of eligibility: who would be allowed to cast votes and who would not. The Founding Fathers were, of course, men of their time. To them, it was self-evident that only those with a stake in society should have a voice in determining who would govern that society. They believed that, since government was established to protect property and personal freedom, those involved in choosing that government should have some of each. This meant, at the time, that only white Protestant males who owned property could vote. Not women, not poor people, not indentured servants, not Catholics and Jews, not slaves from Africa or Native Americans. "Women, like slaves and servants, were defined by their dependence," says historian Michael Schudson. "Citizenship belonged only to those who were masters of their own lives." Because of these restrictions, only about 6 percent of the population of the brand-new United States chose George Washington to be the country's first president in 1789. Even though these new Americans were proud of the fact that they had gotten rid of royalty and nobility, "common" people, at first, continued to defer to the "gentry." Therefore, members of rich and well-connected families generally won political office without much opposition. This state of affairs, however, did not last long. The concept of democracy turned out to be so powerful it could not be contained, and those who were not so rich and not so well-connected began to believe that they, too, should have the opportunity to help run things. [... Continued in next slide...]

## Further Reading

### **EXTENDING THE FRANCHISE**

Throughout the 19th century, politics in the United States became, slowly but inexorably, more inclusive. The old ways broke down, groups previously excluded became involved in the political process, and the right to vote was given, bit by bit, to more and more of the people. First came the elimination of religious and property-owning restrictions, so that by the middle of the century most white male adults were able to vote. Then, after a Civil War was fought (1861-1865) over the question of slavery, three amendments to the U.S. Constitution significantly altered the scope and nature of American democracy. The Thirteenth Amendment, ratified in 1865, abolished slavery. The fourteenth, ratified in 1868, declared that all persons born or naturalized in the United States are citizens of the country and of the state in which they reside, and that their rights to life, liberty, property, and the equal protection of the laws are to be enforced by the federal government. The Fifteenth Amendment, ratified in 1870, prohibited the federal or state governments from discriminating against potential voters because of race, color, or previous condition of servitude. The crucial word "sex" was left off this list, not through oversight; therefore, women continued to be barred from the polls. The extension of suffrage to include former slaves gave new life to the long-simmering campaign for women's right to vote. This battle was finally won in 1920, when the Nineteenth Amendment said that voting could not be denied "on account of sex." Ironically, at this point the situation was reversed. Women could now vote, but many black Americans could not. Beginning in the 1890s, southern whites had systematically removed blacks from electoral politics through voting regulations such as the "grandfather clause" (which required literacy tests for all citizens whose ancestors had not been voters before 1868), the imposition of poll taxes, and, too often, physical intimidation. This disfranchisement continued well into the 20th century. The civil rights movement, which began in the 1950s, resulted in the Voting Rights Act of 1965, a federal law that outlawed unfair electoral procedures and required the Department of Justice supervise southern elections. The Twenty-fourth Amendment, ratified in 1964, abolished the imposition of a poll tax as a qualification for voting, eliminating one of the few remaining ways that states could try to reduce voting by African Americans and poor people. One final change was made to the Constitution to broaden the franchise. U.S. involvement in the Vietnam War during the 1960s and early 1970s gave new impetus to the idea, first discussed during the Revolutionary War and revived during every war fought since, that people old enough to bear arms for their country were also old enough to vote. The Twenty-sixth Amendment, ratified in 1971, reduced the voting age from 21 to 18 years. Now, nearly all adult citizens of the United States, native-born or naturalized, over the age of 18 are eligible voters. Legal restrictions deny the vote only to some ex-felons and to those who have been declared mentally incompetent.

# Further Reading

## DIRECT DEMOCRACY

The most important question in U.S. electoral politics these days is not who is eligible to vote, but rather how many of those who are eligible will actually take the time and trouble to go to the polls. The answer now, for presidential elections, is around half. In the election of 1876, voter participation reached the historic high of 81.8 percent. Throughout the 1880s and 1890s, it averaged around 80 percent, but then began a gradual decline that reached a low of 48.9 percent in 1924. The Democratic Party's "New Deal Coalition" during the Great Depression of the 1930s caused a revival of interest on the part of voters, resulting in averages up around 60 percent. Turnouts started back down again in 1968, reaching a low of 49.1 percent in the presidential election of 1996. The fact that more people do not vote is distressing to many. "There is currently a widespread sense, shown by public opinion surveys and complaints by informed observers, that the American electoral system is in trouble," says political scientist A. James Reichley in his book *Elections American Style*. "Some believe that this trouble is minor and can be dealt with through moderate reforms; others think it goes deep and requires extensive political surgery, perhaps accompanied by sweeping changes in the larger social order. Complaints include the huge cost and long duration of campaigns, the power of the media to shape public perceptions of candidates, and the undue influence exerted by 'special interests' over both nominations and general elections." Many commentators believe that what the U.S. electoral system needs is more direct, less representative, democracy. Televised town hall meetings, for example, at which voters can talk directly to elected officials and political candidates, have been encouraged as a way to "empower" the people. And the use of ballot initiatives, referendums, and recall elections is growing rapidly. The precise mechanisms vary from state to state but in general terms, initiatives allow voters to bypass their state legislatures by collecting enough signatures on petitions to place proposed statutes and, in some states, constitutional amendments directly on the ballot. Referendums require that certain categories of legislation, for example, those intended to raise money by issuing bonds, be put on the ballot for public approval; voters can also use referendums to rescind laws already passed by state legislatures. A recall election lets citizens vote on whether to remove officeholders before their regular terms expire. Initiatives, now allowed by 24 states, have been especially popular in the West, having been used more than 300 times in Oregon, more than 250 times in California, and almost 200 times in Colorado. All sorts of issues have appeared on the ballot in the various states, including regulation of professions and businesses, anti-smoking legislation, vehicle insurance rates, abortion rights, legalized gambling and the medical use of marijuana, the use of nuclear power, and gun control.

# Further Reading

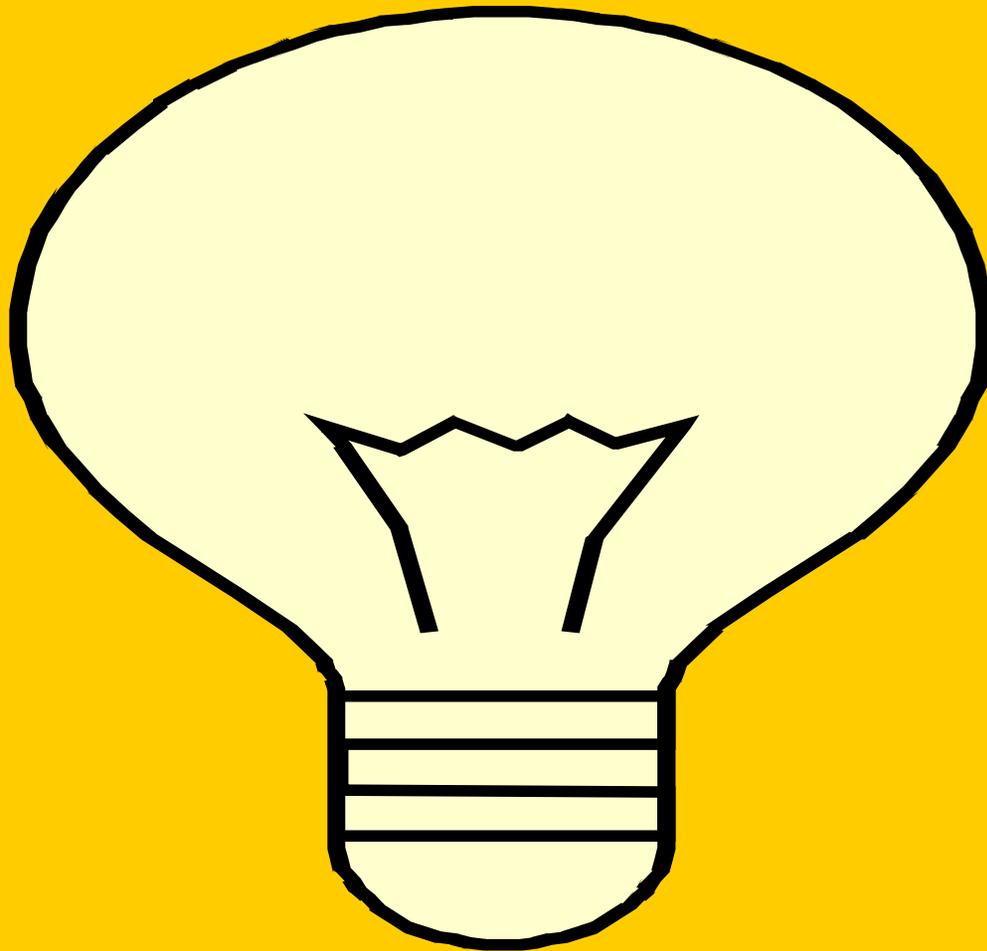
## RESPONSIBILITIES OF CITIZENSHIP

Citizens of the United States, it is clear, have a great many rights that give them freedoms all peoples hold dear: the freedom to think what they like; to voice those opinions, individually to their elected representatives or collectively in small or large assemblies; to worship as they choose or not to worship at all; to be safe from unreasonable searches of their persons, their homes, or their private papers. However, the theory of democratic government holds that along with these rights come responsibilities: to obey the laws; to pay legally imposed taxes; to serve on juries when called to do so; to be informed about issues and candidates; and to exercise the right to vote that has been won for so many through the toil and tears of their predecessors. Another major responsibility is public service. Millions of American men and women have entered the armed forces to defend their country in times of national emergency. Millions more have served in peacetime to maintain the country's military strength. Americans, young and old alike, have joined the Peace Corps and other volunteer organizations for social service at home and abroad. The responsibility that can make the most lasting difference, however, is getting involved in the political process. "Proponents of participatory democracy argue that increased citizen participation in community and workplace decision-making is important if people are to recognize their roles and responsibilities as citizens within the larger community," says Craig Rimmerman, professor of political science, in his book *The New Citizenship: Unconventional Politics, Activism, and Service*. "Community meetings, for example, afford citizens knowledge regarding other citizens' needs. In a true participatory setting, citizens do not merely act as autonomous individuals pursuing their own interests, but instead, through a process of decision, debate, and compromise, they ultimately link their concerns with the needs of the community." Tom Harkin, U.S. senator from Iowa, says that the kind of activists who fueled the earlier civil rights, anti-Vietnam War, and environmental movements are now focusing their energies "closer to home, organizing their neighbors to fight for such issues as better housing, fair taxation, lower utility rates, and the cleanup of toxic wastes...."

## Further Reading

- Cutting across racial and class and geographical boundaries, these actions have shown millions of people that their common interests far outweigh their differences. [For all of them], the message of citizen action is the same: "Don't get mad, don't get frustrated, don't give up. Organize and fight back." A fact of political life is that thinking about issues, gathering information about them, and discussing them with friends and neighbors make no difference in how elected officials act — or, more important, vote. These officials care a great deal, though, about whether those who elected them are likely, or not likely, to elect them again. When letters, phone calls, faxes, and e-mail messages from constituents start to arrive, attention is paid. It is still the people, each one with a vote whenever he or she chooses to cast it, who have the ultimate power. The road from 1787 and the drafting of the U.S. Constitution to the present has not been a straight one. Voters have been moved by passions and events first in one direction, then in another. But, at some point, they have always found a way to come back to rest near the center. Somewhere between the pragmatic and the ideal, between the local and the national, between the public and the private, between selfishness and altruism, between states' rights and the good of the nation as a whole, exists a common ground on which the people of the United States have, through the years, built a strong, prosperous, free country — a country that is flawed, granted, but always spurred on by the promise of better days to come.

**DO YOU HAVE ANY  
QUESTIONS?**



Next Week

THE AMERICAN MODEL  
OF FEDERALISM