

**DEPARTMENT OF POLITICAL SCIENCE
AND
INTERNATIONAL RELATIONS**

Posc 105

**THE CONSTITUTION CONTEXT
(Continued)**

I. THIS MORNING:

- A. How the American constitution system fragments power, diminishes political capacity, and hinders accountability.
- B. Public opinion and the media (if time).

II. WHAT THE CONSTITUTION DOES:

- A. Rehash of yesterday's notes.
- B. Creates a republic, not a democracy.
- C. It also constructs a "moat" around "representatives"
 - 1. The electoral college and the indirect election of the president.
 - 2. A byproduct of the moat: divided power protects representatives from being held accountable.
- D. In order to limit government the constitution **fragments power**:
 - 1. Note: * means important point.
 - 2. *The **shattered sword**:
 - a. Separation of powers
 - (1) Three semi-autonomous branches
 - (2) Look at the table on page 79 of Patterson, *We the People*
 - (i.) Note in particular that many nations do not divide power as extensively as the American constitution does and yet remain "free."
 - b. Checks and balances (e.g., veto, advise and consent, tax legislation, etc.)
 - (1) Impeachment
 - c. Federalism
 - (1) National and state governments.
 - (2) See Patterson, *We the People*, Chapter 2.
 - d. "Bicameralism" - two houses of Congress
 - e. *Independent constituencies
 - f. *Geographical representation
 - g. Enumeration of specific powers; others left to the states.
 - h. The Bill of Rights
 - i. An independent judiciary
 - (1) ***Judicial review**

- (i.) the Supreme Court has extraordinary power.
 - (ii.) Marbury Vs Madison
 - E. The bottom line: all of these work against capacity and democracy
- III. AN ALTERNATIVE - "PARLIAMENTARY" SYSTEMS:
 - A. Consider this solution to the problems of improving political capacity and enhancing accountability.
 - B. A unified or parliamentary system
 - 1. Merge legislative and executive branches and reduce judicial review.
 - 2. Create "strong, disciplined" parties with leaders who have the power to force agreement.
 - 3. Change the function of the legislature by making it a deliberative and oversight body.
 - 4. Eliminate judicial review
- IV. AN EVALUATION OF THE CONSTITUTIONAL SYSTEM:
 - A. * Like any political arrangement the constitution creates winners and losers.
 - 1. Some groups in society "fare" better than others under our system.
 - 2. It's absolutely not the case the constitution creates political equality.
 - a. I'll try to demonstrate this point today and in the remainder of the semester.
 - B. Advantages
 - 1. Protects political rights
 - 2. *Give individuals and especially groups **multiple points of access**.
 - C. Disadvantages
 - 1. Frequently thwarts majority preferences.
 - 2. *A system in which the strongest survive and flourish.
 - a. One reason why I say not everyone fares equally well.
 - 3. Hinders decisive action.
 - 4. *Makes the assignment of responsibility difficult.
 - a. Who do we blame for government's actions and inactions?
 - D. The bottom line: all of these work against capacity and democracy
 - 1. Divided power protects representatives from being held accountable.
 - 2. Divided power suffocates government action
- V. NEXT TIME:
 - A. Public opinion and the mass media
 - B. Reading:
 - 1. Patterson, *We the People*, Chapter 3.
 - a. As noted yesterday, read pages 65 to 84 reasonably carefully.
 - b. The reading fills you in on the fragmentation of power (my term, not Patterson's) and how the founders' concerns about power and liberty worked their way into the document.