

LECTURE THREE

THE PHILOSOPHICAL WORLDVIEW OF THE CONSTITUTION



GENERAL OBJECTIVES

You should be able to identify the principles of American political theory and their historic sources. Also the student should be able to identify the major problem facing the Framers of the Constitution and their formula for addressing this problem.

SPECIFIC OBJECTIVES

- ☆ *Know the main contributions to American political theory of Baron Charles Montesquieu, William Blackstone and John Locke.*
- ☆ *Enunciate the underlying principles of American Political Theory including the following concepts:*
 - ☆ *The Laws of Nature and Nature's God.*
 - ☆ *Natural Rights.*
 - ☆ *Equality.*
 - ☆ *Government by Consent of the Governed.*
 - ☆ *The Sinfulness of Human Nature.*
- ☆ *Articulate the main problem facing the Framers of the Constitution.*
- ☆ *Articulate the Framers formula for addressing the problem.*

“John Calvin was the virtual founder of America.”¹
–Leopold von Ranke
(Modern School of History)

“For when the Gentiles, which have not the law, do by nature the things contained in the law, these, having not the law, are a law unto themselves: Which shew the work of the law written in their hearts, their conscience also bearing witness, and their thoughts the mean while accusing or else excusing one another.”
–Romans 2:14-15

¹ NEED SOURCE



Lecture Three: The Philosophical Worldview of the Constitution; follow along with the notes in the following section.

MAJOR INFLUENCES ON THE FRAMERS

A. The Bible.

B. Baron Charles Montesquieu: (France, 1689 - 1755)

1. Roman Catholic
2. Main work: *The Spirit of the Laws* (1748)
3. Main contributions to Framers' thought:
 - a. God is the Author of all law.
 - Physical Laws.
 - Moral Laws.
 - b. Because of man's sinful nature, man departs from God's laws.
 - c. Civil government is necessary to keep men within the confines of God's law.
 - d. Sinfulness of human nature causes government to become despotic.
 - e. To keep government moderate, it is best to separate government power into three branches: legislative, executive, judicial. (Isaiah 33:22)
 - f. Christianity makes government more humane.

Montesquieu compared Christianity to Islam and declared Christianity superior partly because of the better government it promotes:



“A moderate Government is most agreeable to the Christian Religion, and a despotic Government to the Mahomedan: The Christian religion, which ordains that men should love each other, would, without a doubt, have every nation blest with the best civil, the best political laws; because these next to this religion, are the greatest good that men can give and receive ... The Christian religion is a stranger to mere despotic power. The mildness so frequently recommended in the gospel is incompatible with the despotic rage with which a prince punishes his subjects, and exercises himself in cruelty.... While the Mahomedan princes incessantly give or receive death, the religion of the Christian renders their princes less timid, and consequently less cruel. The prince confides in his subjects, and the subjects in the prince. How admirable the religion which, while it only seems to have in view the felicity of the other life, continues the happiness of this!”²

C. Sir William Blackstone: (England, 1723 - 1780)

1. Anglican (Church of England or Episcopal).
2. Main work: *Commentaries on the Laws of England* (1765).
3. Main contributions to Framers' view:
 - a. Better understanding of English common law.
 - b. Judicial Restraint: Judges do not "make" law; they discover and apply law.
 - c. Three categories of Law:

Law of Nature: "...when He Created man, and endued him with free will to conduct himself in all parts of life, He laid down certain immutable laws of human nature, whereby that free will is in some degree regulated and restrained, and gave him also the faculty of reason to discover the purport of those laws."

Revealed Law: "The doctrines thus delivered we call the revealed or divine law, and they are to be found only in the Holy Scriptures." (i.e. the Ten Commandments)

Municipal Law, that which is adopted by civil government, must conform to the higher law of God (i.e. applying the Laws of Nature and Nature's God to human institutions): "Upon these two foundations, the law of nature and the law of revelation, depend all human laws: that is to say, no human law should be suffered to contradict these."

The Proper Understanding of Precedent

"For it is an established rule to abide by former precedents, where the same points come again in litigation; as well to keep the scale of justice even and steady, and not liable to waver with every new judge's opinion; as also because the law in that case being solemnly declared and determined, what before was uncertain, and perhaps indifferent, is now become a permanent rule, which it is not in the breast of any subsequent judge to alter or vary from, according to his private sentiments: he being sworn to determine, not according to his own private judgment, but according to the known laws and customs of the land; not delegated to pronounce a new law, but to maintain and expound the old one.

Yet this rule admits of exception, where the former determination is most evidently contrary to reason; much more if it be contrary to the divine law [emphasis added]. But even in such cases the subsequent judges do not pretend to make a new law, but to vindicate the old one from misrepresentation. For if it be found that the former decision is manifestly absurd or unjust, it is declared, not that such a sentence was bad law, but that it was not law; that is, that it is not the established custom of the realm, as has been erroneously determined."³

³ Sir William Blackstone, *Commentaries on the Laws of England, Volume 1.*

D. John Locke: (England, 1632 - 1704)

1. Raised in Puritan family, basically Christian though not entirely orthodox.
Main works: *First Treatise on Civil Government*, *Second Treatise on Civil Government*,
Essay Concerning Human Understanding of St. Paul's Epistles, by Consulting St. Paul Himself, *On the Reasonableness of the Christian Faith*.
2. Main contributions to Framers' view:
 - a. Government is established by covenant or contract of the people, ultimately based upon "that Paction which God made with Noah after the Deluge." Genesis 9:6 "Whoso sheddeth man's blood, by man shall his blood be shed: for in the image of God made he man."
 - b. God has ordained the Law of Nature to which all human law must be subordinate.
 - c. This Law of Nature: Our God-given natural rights, chiefly: life, liberty and property.

E. Thinkers on international law: Grotius (Holland), Pufendorf (Germany), Vattel (Switzerland). They stressed that international law must be based upon revealed law and law of nature.

F. Roman thinkers: Virgil, Cicero, Seneca, Marcus Aurelius. They stressed the virtue and discipline of the old Roman republic against the later excesses of the Empire.

G. Non-Christian sources often cited negatively by the Framers: Plato, Voltaire, Jean-Jacques Rousseau, Thomas Hobbes, David Hume.

THE LAWS OF NATURE AND OF NATURE'S GOD

A. Sources of this concept:

1. The Bible.
 2. Classical thinkers: Cicero, etc.
 3. International law thinkers: Hugo Grotius, Samuel von Pufendorf, Emerich de Vattel.
 4. "Contemporary" Thinkers: Sir William Blackstone, John Locke, Baron Charles Montesquieu.
 5. Founding Father Noah Webster defined these terms as:
 - a. Written law - the 10 Commandments and other revealed law
 - b. Unwritten law - your God-given conscience
 - c. In other words, there exists a higher law than the law of man by which man's law must be judged.
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- B. Natural law is predicated upon the existence of absolute truth. (See discussion of presuppositions of American government in Lecture One)
- C. False view of natural law: That which exists in nature, i.e. Thomas Hobbes, an English philosopher who aligned his thinking with Roman philosophers like Cicero who believed there was no need to look outside ourselves for an expounder or interpreter of natural law.
- D. But Nature is fallen - Romans 8:20-22 - "For the creature was made subject to vanity... For we know that the whole creation groaneth and travaileth in pain together until now."
- E. Natural law limits governmental authority.

NATURAL RIGHTS

- A. Rooted in view of natural law.
- B. Source of natural rights - God.
- C. Based on man being created in image of God, possessing human dignity.
- D. Based on negative commands of Scripture: "Thou shalt not kill." Exodus 20:13, etc.
- E. Exists as a limit on governmental authority.
- F. Consists of:
 1. Life (basis for exercising other rights).
 2. Liberty - defined by Noah Webster as 'the freedom to do what is right.' Right defined as 'according to the will of God.' Therefore -
 - a. Liberty is not the freedom to do as you please.
 - b. True liberty is the freedom to choose to do what is right according to the will of God.
 3. Property - Do not steal (Exodus 20:15):
 - a. Not just material gain.
 - b. Property was viewed as means of productivity.
 - c. Property was viewed as an extension of the person.
 4. Pursuit of happiness:
 - a. Includes property, but more.
 - b. Equated with pursuit of virtue, the only basis for genuine lasting happiness.

Each State recognized and understood these rights; i.e. Maryland's Declaration Rights Article 36. "That as it is the duty of every man to worship God in such manner as he thinks most acceptable to Him, all persons are equally entitled to protection in their religious liberty;

- G. wherefore, no person ought by any law to be molested in his person or estate, on account of his religious persuasion, or profession, or for his religious practice, unless, under the color of religion, he shall disturb the good order, peace or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil or religious rights."

EQUALITY

- A. Based not on outcomes, but on being created in God's image.
- B. Acts 10:34; "God is no respecter of persons."
- C. Galatians 3:28 "There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female: for ye are all one in Christ Jesus."
- D. Old Testament law prohibited partiality in judging; prophets condemned judges for partiality.

GOVERNMENT BY CONSENT OF THE GOVERNED

- A. This is a clearly established principle in God's Law:

1. Judges 8:22 "Then the men of Israel said unto Gideon, Rule thou over us, both thou, and thy son, and thy son's son also: for thou hast delivered us from the hand of Midian."
2. Judges 9:6 "And all the men of Shechem gathered together, and all the house of Millo, and went, and made Abimelech king, by the plain of the pillar that [was] in Shechem."
3. II Samuel 16:18 "And Hushai said unto Absalom, Nay; but whom the LORD, and this people, and all the men of Israel, choose, his will I be, and with him will I abide."
4. II Kings 14:21 "And all the people of Judah took Azariah, which [was] sixteen years old, and made him king instead of his father Amaziah."

- B. God is the Source of all authority - not just power, but legal authority; i.e. according to the Laws of Nature and Nature's God.

1. Romans 13:1 - "Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God."
2. Daniel 6: 1-10 - Daniel obeyed a pagan king UNTIL he commanded Daniel to worship him rather than God.
3. Clearly recognized by colonial charters.

- C. God delegated authority to civil government through the people.
- D. John Locke's theory of social contract.

SINFULNESS OF HUMAN NATURE

- A. Framers believed man was sinful, self-interested, corruptible, as Bible describes him.



“If men were angels, no government would be necessary. If angels were to govern men, neither external or internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.”⁴

“Till the millennium comes, in spite of all our boasted light and purification, hypocrisy and treachery will continue to be the most successful commodities in the political market.”

— Alexander Hamilton.

- B. They, therefore, believed a government is needed to curb man’s sinful nature.
- C. However, they also knew rulers and government officials have the same nature as the rest of us.
- D. For that reason they feared government power.

“All power tends to corrupt and absolute power corrupts absolutely.” — Lord Acton⁵

1. For that reason God has limited government power.

2. Limited Government has eroded - Modern Politicians have largely abandoned the American View of a limited Government. An example of this is when four Congressman expressed their views on the role of government, views that are totally incompatible to those found in the Constitution.

- a. Representative Jane Harmon (D) California, “The public role in health care and the private role in health care are also reinforcing values. And if we want to achieve what the Constitution requires, which is the protection of life, liberty and the pursuit of happiness, we need a robust public role and a robust private role. And that, I think, is what HR3200 achieves.”⁶
- b. Representative John Sarbanes (D) Maryland, “Government does a lot of good things.”⁷
- c. Representative Chris Murphy (D) Connecticut, “Government intervention into a very broken market place adds liberty; adds freedom; the shackles of a badly run private market can be just as onerous as those placed on individuals by government...”⁸

4 James Madison, *The Federalist Papers*, No. 51

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d. Representative Henry Waxman (D) California, “If there is a market failure government has to step in... government must be there to make the market work ... to take care of people and to make sure that they get what’s due them as people.”⁹

E. Socialism - the example of a destitute woman. Can collective force be used to do that which is illegal for individual force? Absolutely not!

ISSUE AT CONSTITUTIONAL CONVENTION: How To Give Government Enough Power To Govern Effectively, But Limit That Power So Government Does Not Become Tyrannical And Corrupt, Given The Fallen Nature Of Man?

A. **Answer:** Don't let any individual or agency become too powerful.

B. **Method:** Framers' Five-Fold Formula:

1. Limited, delegated powers - Thomas Jefferson said, “Bind men down with the chains of the Constitution.”¹⁰ If it is not mentioned, the federal government has no authority in that area, such as marriage, education or health care.
2. Vertical division of powers - Local - State - Federal
3. Horizontal separation of powers — Legislative, Executive, Judicial branches as well as the Fourth Branch — the Jury.
4. Checks and balances.
5. Reserved individual rights as stated in 9th and 10th Amendments.

NEED FOR CIVIC VIRTUE

A. Framers believed freedom impossible without virtue.

B. Framers believed man did not possess virtue.

C. How to provide virtue - through religious/Christian values, not doctrine: The role of Christianity in government is to help people become better citizens, not saving their soul!

“Of all the dispositions and habits which lead to political prosperity, Religion and Morality are indispensable supports.”¹¹

— George Washington (Farewell Address, 1796)

“Our Constitution was made only for a moral and religious people. It is wholly inadequate for the government of any other.”¹²

— John Adams

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CONTRASTING THE UN AND USA PHILOSOPHIES

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Individual Rights – The UN Charter asserts the need to control the individual for the greater good of a global community: “Rights and freedoms may in no case be exercised contrary to the purpose and principles of the UN.” The Declaration of Independence states we are created equal and are endowed by our Creator with unalienable rights. Government is established to protect those rights.

Life – The UN is pro-abortion, having authored numerous policies in their treaties for population control, including mandatory sterilizations and forced abortions up to and through the 9th month of pregnancy. The United States was founded with the basic God-given right to life – pro-life – listed in our Declaration of Independence.

Education – The UN principles can be found throughout our school textbooks. They desire world-wide curriculum and control, and have indeed, already formed an international school board called UNESCO. They vehemently oppose home-schools and Christian education, creating policy to eradicate them. The United States was founded upon the principle that government was not to be involved in the private education decisions of families. If the family functions properly, the State has no authority or jurisdiction to intervene.

Environment – The UN declares land use decisions must be for the good of “Mother Earth” with animal and bug rights often overriding people’s rights. Our founders believed in the Biblical mandate to take dominion over the earth and subdue it, meaning responsible caretaking and replenishing of the environment and natural resources, as directed by our sovereign God, not Mother Earth.

Property Ownership – The UN Agenda 21/Sustainable Development treaty calls for the elimination of private vehicle, land or home ownership. The primary purpose of the government of the United States is to protect the private property rights of individuals, especially property, land and homes.

Right to Bear Arms – No firearms allowed, or all guns must be registered so as to be easily confiscated at the Government’s first desire. Groups like the National Rifle Association (NRA) and Gun Owners of America (GOA) are demonized. The United States Constitution guarantees the right to bear arms, for the precise purpose of protection against a government that has overstepped its boundaries and will seek to confiscate privately-owned property and goods from the general population.

Military – The UN uses our military to establish a New World Order, getting us involved as a “Global Police Force” wherever they perceive a vital interest. The purpose of the United States military is to protect lives and property of American Citizens, not those of the world.



OPTIONAL
READING
ASSIGNMENTS

LECTURE THREE

1. Continue reading *The Law* by Frederick Bastiat. Start at “The Fate of Non-Conformists” and read to “The Fatal Idea of Legal Plunder” (pages 242-244).

LECTURE REVIEWS

1. Complete Lecture Three Review Worksheet.
2. Complete Lecture Three Quiz, including True & False Questions.

GOING DEEPER: SUPPLEMENTAL READING & VIDEO OPTIONS



Found at www.theamericanview.com/constitution-course-supplemental-assignments which can also be found at the bottom of TheAmericanView.com under Resources.

Read Declaration of Independence (text in the appendix of this Student Manual) in preparation for Lecture Four where the student will begin to apply The American View of Law and Government.