

THE AMERICAN SYSTEM OF GOVERNMENT

*Summary of a Public Lecture delivered by
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The United States Constitution is the first written constitution of the modern kind, based on the theory that the individual is an end in himself and the state a means to the fulfillment of that end; that the object of government is the good of the governed and that, generally speaking, that good is to be found in the happiness of the governed. Ethically it is true that happiness is not the sole end of life but it is the only one of which politics can presume to take account. Quite deliberately the Fathers of the American constitution decided that good administration is not necessarily good government and that to avoid tyranny and promote individualism it was better, at times, to have no government rather than a bad one. This attitude is a luxury possible only for certain states, desirable for all, explicable in terms of background but most unsuitable for many countries of the modern world. Despite the opinions of nineteenth century liberals, constitutions cannot be transferred ready-made, and it is even more foolish, as has been suggested in the case of India, to transfer a constitution suitable for a homogeneous people with a common political tradition to a sub-continent conspicuous for its varieties of racial and religious experience.

Although parliamentarianism or the liberal democratic pattern is of British origin, with the exception of the British dominions, the fifty or more states which have adopted this method of government have borrowed at second hand rather than copying the original. Why? Because the American, the French and the Belgian constitutions, which are the popular models, are all rigid and in writing and easy to copy; but the British constitution, unwritten, alive and growing is not easy to catch at any given time.

The result is that too many constitutions are copies of copies, strait jackets rather than vehicles for growth and expansion.

The American constitution is the product of its environment. The leaders of the revolution were nourished on the writings of Locke and on the traditions of the English Puritan revolution; by the expulsion of the French from Canada they were free of any dangerous enemy on the North American continent. The majority of immigrants had come to America to avoid religious persecution but by 1776 the old sectarian spirit had softened and opinion was influenced by Voltaire and Montesquieu to a conviction of the superior value of the British constitution. Nevertheless the thirteen original colonies felt no real sense of united national loyalty during the War of Independence, 1776-1783. A new constitution was essential after the war if the colonies were not to drift apart and become thirteen independent republics, many with very divergent industrial and cultural backgrounds.

In the constitution the influence of Montesquieu was predominant, that of the radical Tom Paine of little significance. In *L'Esprit des Lois* Montesquieu found the success of the British constitution to lie in the separation of the three great powers of government — executive, legislative and judicial. The 39 representatives who signed the draft constitution on September 17, 1787 had kept this very much in mind. The constitution provided for the unity of the nation in the person of a President, who unfortunately is both political and ceremonial head of the state, elected indirectly by the people of all the states; it recognized the equal sovereignty of the states in a Senate to which each state sent two representatives whose status was akin to that of an Ambassador; it acknowledged the sovereignty of the people in a House of Representatives whose members were proportional to the population. The executive was to have no share in the legislative body; members of the cabinet, a body which is not mentioned in the constitution, cannot sit in either branch of Congress. Finally a Supreme Court was established to act as guardian and interpreter of the constitution and this guardianship was actively extended during the long and notable career of Chief Justice Marshall.

The constitution specifically laid down those powers which fell to the central government, and the residue — a very considerable amount — are at the disposal of the states. The 48 states are in charge of local government, education, the police, the chartering of banks and companies, the care of roads, bridges and canals, and, most important, they have the power to decide who

is to vote and how, accordingly some states have kept negroes or those unable to pay a poll-tax from voting. It is the province of the Supreme Court to decide if or when the Federal and State governments are infringing on each others powers. As further checks on the dangers of tyranny frequent elections are provided for. The President and his understudy the Vice-President, a man almost without a job, have a four year term; a Senator sits for six years, and a Representative for two. As result the Senate has become the stronger branch of the legislature. Though the constitution is cumbrous, clumsy and slow it has had but 21 amendments in a century and a half. Save for Franklin Roosevelt no President has ruled for more than two terms. He is no longer elected by chosen intelligent leaders but in practice by a vote of the whole people, yet his policies may be nullified by the opposition of a legislature elected at a different time; the power of the Supreme Court has in political affairs, become too great; just as the position of the Cabinet is not sufficiently powerful and the American executive, not sitting in congress has by no means the experience or authority of a British cabinet. A flexible constitution of the British type could meet emergency situations much more quickly than a rigid American one. In a world dominated by the atomic bomb the latter may be outmoded, yet the frequency of elections, not merely to congress but also to positions in state and local government have made it the constitution of all the world most in touch with the people, it is a symbol of day by day democracy just as it is the first example of a successful federal constitution.

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