

Practice Session #1 9/25/17

Benny was upset about taxation without representation. Why?

Only the colonial govt could tax individuals, and parliament was taxing them without any representation. According to parliament, the colonists were already represented

How is the supremacy clause different from the declaratory act?

In the context of the constitution and bill of rights, supremacy clause is less binding to the states and local govt and enhances their power. Also, the declaratory act was created in response to misbehavior, while the supremacy clause was voted in by state representatives.

Were there any framers who were more concerned with the supremacy clause?

James Madison was the one who wrote about it in the federalist papers and took a strong position on it.

Are there places where we should leave decisions to the states?

Begin with the places in the constitution that are specific to the states at large, rather than specific states.

The purpose of the latest healthcare effort is to move decision making to the states from the federal government. Is that a good thing?

It falls under the commerce clause so congress should regulate it because insurance companies etc operate between states.

Does the supremacy clause make marijuana legal or not?

It would be enforceable but the govt hasn't been doing that.

Feedback: well paced, make sure the audience is keeping up bc the judges might not know what you're talking about, presentation was sophisticated, discussion was thorough (federalism merging with govt), cohesive, flowed nicely, not everyone talked, don't try too hard to sound sophisticated bc it sounds hard to follow and is too obvious, everybody was well prepared and it was nice that they skipped around from person to person, but at the beginning it felt like the judges were dropped into it rather than given an introduction - more foundation building would be good, link background facts to broader concepts, more examples for how state and federal law interact, 10th amendment, everyone was composed and spoke clearly

[Another p1q1 summary:

2017-2018 Unit 1

Q1) Ben Franklin was upset about taxation w/out representation. Why?

AP: The colonial govts only had the power to tax, and the federal gvt was an external tax and didnt hav the power to tax

Q2) How is declaratory act different from supremacy clause

CC: Without context the SC is more similar, but the SC is much less finding to the gvts than the DA.

AP: the supremacy clause was voted on

CC: the Cupremacy clause is less powerful

AM: outside of article 1, section 8, congress cant make state binding laws

Q3)

CC: the powers of the federal gvt are few and defined, and everything else goes to state

Q4) What happens if theres a slate law that conflicts with federal laws?

CC: The federal has pwr

Q5) Are there areas of regulation where federal congress is better at decision making? How to schoose and where to start?

AM: Matters that affect multiple states: currency, intercommerce, everything else left to states

Q6) purpose of most recent healthcare=states have pwr. GOod or bad?

CC: federal gvt commerce clause.

ASKED FOR DISAGREEMENTS. NONE STATED.

Q7) Marijuana?

AM: Enforceable. Cases seen in california where htat have been enforceable.

COMMENTS:

- Make sure audience understands. This is unknown territory.
- Presentation was “sophisticated” cohesive and flowed nicely,
- Roselia needs to talk.
- If you try too hard to sound sophisticated it gets in the way and it can be hard to follow.
- Good job jumping from person to person win prepared response.
- Need more of an introduction. Felt kind of “dropped into the topic” without enough of a foundation.
 - More historical examples and not more background facts necessarily, just more explanation of them. More of a “roadmap”
- More examples.
- 10th ammendment + power of the states. Put this in.]

Practice session #2 10/23/17

Polity is less likely to devolve into mob rule. Why?

Checking the powers of each section of government, such as the people checking the monarchy, would prevent tyranny. Aristocracy attracts only higher citizens who act for the benefit of other high-class citizens, while democracy attracts only common people.

Heller v. United States

Attempt to ban guns inside Washington DC, ban overturned bc of second amendment, but personal citizens aren't a militia so they shouldn't have the right to carry guns.

Counter-argument: key point of the constitution is that it is not up to the govt to act on the common good, natural rights philosophy provides for the rights of individual people even when it may be a danger to the common good - common good could be morphed into excessive government control.

What is the common good?

Whatever the government defines it as, within the context of classical republicanism. Rulers were set up to determine the common good, people with civic virtue would go along with it.

Counter-argument: set virtues that are held throughout aristotle's society, rulers must protect all people, not protecting the people isn't part of the common good, may not be directly defined by the government but it is something they want the government to protect and they speak out when it is not protected.

How do you define natural rights? Where did they come from?

Aristotle didn't incorporate them, since in his view the common good was more important. Locke and Rousseau were the first ones to introduce them, and the founders were the ones to implement them,

Feedback: almost everyone talked, not much of a lag in response time, a couple times where one person would set up the answer and another person built on it with an answer, sometimes the answers went on too long - set up your teammates more quickly so you can jump around, listening enough to what the other person was saying to disagree, using examples is good, addressing colleagues' perspectives is really good.

Practice Session 3:

Us constitution incorporates magna carta. Any parts of that left out?

- Magna carta is a very specific doc to time period
 - Concern of magna carta (Constitution?) was state should be separate from church (not controlled by religious beliefs)
- Rights of barons and debt collection not relevant to US needs

Rights of englishmen, trial by jury, etc. more detail?

- Are sort of ill-defined
- Edmund burke: natural rights are chartered rights of men (natural and inherent and further protected through different charters)

A major issue was that the wording was ambiguous; many englishmen were content with implicit rights

Mentioned magna carta part of it's time, any parts of our constitution relevant to the time that it was created?

- Within the body of constitution there is no law that defining importation of slaves
- Second amendment is outdated in its mandate of state-regulated militias; untenable in contemporary in society
- Context of original constitution has changed through judicial review and other amendments

Comparison between judicial review and what happens in england, recently they made a constitutional court, tell more?

- Because britain has unwritten constitution, laws that parliament makes is constitutional (UN declaration of rights now checks ideas of parliament)

Mentioned fluidity of british constitution and unchanging nature of the US constitution, which is better? Static v. Fluid constitution.

Mine: us constitution is de facto ambiguous english constitution; supreme court rulings have a large effect of interpretation of constitution

- In comparison to british constitution is that US Con is very stagnant

Idea of updating constitutional principles, we do it here with our supreme court. England does it through parliament, which is better and why?

- Better to have a more static constitution; more enumerated rights -- some of the most pressing changes are mandated
- Very rarely are laws taken back what's a better work for taken back friends

Updating constitutional principles like privacy, we use the supreme court to create whole new rights. Interpretive power is a lot stronger than whatever they have in england.

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- Bring more concrete current examples (for orientation) of individual liberty vs community good
- Good job picking up slack where others left off

“Self-select crowd”

Material is very good -- real-life examples

Broad -- provide specific examples to anchor the piece

Bring in real life examples.

Wanted to hear from everyone.

Good job spreading out answers

Finish question at end, good job.

Appreciated more examples

Broad question ~ specific examples, don't get lost in the abstract.

Good job bringing historical documents into today's world.

12/4/17 practice session

1. Follow up:

- a. Immigration... state law and national law conflict, sanctuary cities
 - i. Local and federal, different from state and federal. It's okay if restricted on local level only capabilities
- b. Rights given to states on history
 - i. Article 9
 - ii. Federalists and Anti Federalist conflict, powers of states expansive
 - iii. US v. Windsor, States given power of marriage because it was historical
- c. Marijuana regulations and demarcation, should the federal government reclaim control?
 - i. Gonzales v. Raich
- d. Sanctuary cities. Commandeering vs grant fund line?
 - i. No specific line, focus on intentions
 - ii. Legal precedent of allocation of funds to cities by congress
 - iii. Some cities have stated that they do not care about federal actions
- e. Power to regulate education
 - i. States. Categorical grants give the federal government some power over this
 - ii. Historically it's also the State's, only recently federal
- f. More literal interpretation of constitution or by historical evidence?
 - i. There are good points on both sides

Feedback

- a. Know your prepared response better
- b. Prefer more involvement by Roselia: "canned answers"
- c. Easy to take either side on federal vs. state power
- d. Take sides, don't all agree on one side or lack opinion on the questions
- e. Audra, good use of hands. Timer noticed, others may not have.

3. Follow Up

- a. How do State government fit into British law
 - i. Created during colonial times
 - 1. Had the first constitutions, reflected in the final constitution
 - 2. Bills of rights in state constitutions
 - ii. State governments have more powers, which is a difference from the English
- b. Property rights?
 - i. Magna Carta only applied to the wealthy, mostly applied to "trivial things"
- c. Amendments, US has less. What is your preferred method of amending?
 - i. US is better, single document, Amending carries more weight
 - ii. Rapid amending is better, more contemporary and flexible

- iii. British is better, could have stricter 2nd amendment and and equal rights amendment.
- iv. US is better, safer for the people. Parliament can only be unconstitutional by violating the UNDHR.
- d. US only has Constitutionalism, commands same authority as Church of England and other institutions?
 - i. Solidity creates a more central base
 - ii. US Constitution almost marks the beginning on US cultural history.
- e. British favoritism to tradition, does the US have?
 - i. Yes. Much of our law is based on precedent.

Feedback

- A. Presenting was good
- B. Maybe add specific examples in prepared response?
- C. You could be heard
- D. Good mix of broad, conceptual, and specific knowledge

2. Follow Up

- A. Looking at post high school education, how does that relate to Aristotle
 - a. Education was a central point of aristotle's ideal citizen
- B. Where is the pendulum of our government
 - a. More towards individual rights, as per our constitution (Bill of Rights)
 - b. More government power (from Civil War), Classical republicanism
 - c. ^Agree, post 9/11 & USAPATRIOT Act.
- C. Are there natural rights, or just supposed rights?
 - a. Yes, they can be seen fundamentally in our constitution and Due Process rights
 - b. Natural Rights has many holes. First person who convinced others that a plot of land was him created these Rights.
- D. Constitution limiting/enumerating rights.
 - a. Only the rights enumerated count. Colonies have enumerated rights
 - b. Rights in the constitution are intentionally ambiguous.
- E. Aristotle was against mob rule, what about the West coast referendums?
 - a. "States are the laboratories of democracy", Judicial terms are bad, greater voice of the people is good.
- F. referendum and their impact on democracy. What has the impact been?

Feedback

- A. Good presentation
- B. Public education is Classical Republicanism, Private education is Natural Rights
- C. Good job on prepared answer
- D. Hoping for more substance in the follow ups

- I. Immigration--- can you talk about sanctuary cities
 - A. CC: conflict between local and federal gvts, state can control police departments
- II. Many rights given to states have been based on history. Is there a standard for if rights should be state or federal
 - A. AB: Article 1 section 8 explained
 - B. AM: Talked about federalists and the framing of the constitution, where states had many powers
 - C. AP: U.S. v. Windsor as an example
- III. IN context of federal govt decision not to regulate marijuana, when should they decide to weigh back in
 - A. AB: Gonzales v. Reik? Reich? Could search home
- IV. Sanctuary cities, where would you draw the line between proper and not proper withdrawal or holding of funds
 - A. AM: Focused on intentions because there is no line
 - B. CC: said congress has no "line" and it is all based on opinion
 - C. AM: OR,CA,WA say that they will preserve their sanctuary cities regardless of what feds say
- V. Who has power to regulate education
 - A. CC: States have power usually, then something about categorical grants
 - B. AM: Only recently taken on by federal government
- VI. Is there legitimacy for guidance from constitution instead of history
 - A. CC: yes, but also for other side

TIME

Q1

- Mentioned immigration as a conflict; talk about sanctuary cities' conflict between state and federal govt
 - Powers to control resources of their own PD, but govt can impose restrictions through grants/lack of funds
- Rights given to states are based on history; what rights are reserved for states and which reserved for govt?
 - Enumerated powers; all things not enumerated are delegated to states. Federalist vs. non-federalist debate caused push for states' rights, so framers wrote constitution so that powers of states were varied and many. US v Windsor = congress can't regulate marriage bc states were traditionally given that power
- Govt decides not to regulate marijuana - should govt decide to start enforcing marijuana?
 - Example: Gonzales v. Raich. Woman uses marijuana for pain regulation, but federal govt can still search her home
- Sanctuary cities: where would you draw the line between what is commandeering and what is the withdrawal of grant funds?

- Because there usually is no specific line, it would be focused on intentions which are harder to gauge. Legal precedent for allocation of funds has been lenient and they can determine on their own where \$ should go. However there are a number of states who have banded together to say that they are going to preserve sanct cities no matter what, so federal govt actions to harm sanct cities have failed
- Regulation of education?
 - States usually have the power to enforce their own education policy; no child left behind asserted some federal power by requiring mandatory testing. Historical precedent = states, since public education, safety, and transportation have been left to states
- Should we go back to the constitution or historical precedent?
 - There are a lot of issues which couldn't have been foreseen so it is difficult to judge how the constitution stands on those issues

Feedback: you could know the prepared answer better, transitions were strong, rosalia didn't participate, citing no child left behind was good, citation of case law should have been stronger, come up with canned answers for prepared questions, play around more with current issues because there's a lot going on with sanctuary cities (including in pdx), supreme court allowed travel ban today - bring that in, 10th amendment vs. supremacy clause, take a side on certain issues, sounded knowledgeable and had good points, no passion/opinion on a lot of issues which should be personal - take a position

Q3

- How does state govt fit into the history of the constitution?
 - State govts pop up around colonial times. State govts had the first constitutions of the US, so most of the principles talked about earlier are included. Most states had bills of rights vs. britain's lack of a bill of rights. Power of state govt is another key difference because in britain local govts aren't given special powers over fed
- Magna carta property rights vs. constitution?
 - Magna carta applied only to barons who designed it and was concerned primarily with 'trivial' things like paying off debts of dead people, passing property to descendents, etc which is not mentioned in the constitution
- US constitution has been amended less, do you have a preference for the method of amendment of either one?
 - Us's strict amendment process is better because it is a single document which has to be followed, and amending it means you are irrevocably changing that document. Disagreement: british system is better because constitution can change to become more consistent with current values, e.g. equal rights amendment. 2nd amendment could be changed if we followed the british system which would protect people from shootings. Disagreement: us's strict amendment process is safer because we can declare things unconstitutional more easily, Britain depends on un's UNHCR
- Constitutionalism: does the constitution command the same authority as more historical institutions do?

- Constitution has been a core building block of society, consistent throughout history, guides govt, a lot of other aspects of american life are centered around constitution. Concept of british people predates constitution vs. american culture begins w constitution
- British legal system relies on tradition and custom; what, if any, similar tradition/custom exists in america?
 - Similar to britain, us bases a lot of law on precedent - windsor

Feedback: everyone was conversational, easy to pay attention, good presentation, answered all questions directly, easy to listen to, responses to follow ups were well articulated & well thought out, adding specific examples in british or american history would be more effective, everyone was audible, specific and conceptual info both covered, discussion about states

Question2

Follow up question and responses

Post high school edu how does it relate to classic repub

Promoting and participating in gov

Aristoles students passed down docs

Individual rights with limitation with classical repub

Individual rights- gun rights

Increase in gov power with ____ war shows classical republicanism

Post 9/11 and with patriot = sequierty by sacrifices of personasl rights

Locke

Natural rights or those that are just

Life lib property

Habeous corpus

Naural rights has many ways to be stretched- first land plotted contrast with locke

Constitution is sposed to be specified?

It gives us speified rights

Revolution british did not have bill of rights

Many rights that are constitutional were ambiguous

Aristotle people now leg direct on west voast

Framers thought that the states are responsible for own democ

Judge basis of voters wants

Initiatives for voter leg.....