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Mary Ann Glendon: The Forum and the Tower Study Guide, 2012-2015

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MARY ANN GLENDON: THE FORUM AND THE TOWER

STUDY GUIDE, 2012-2015

Steven Alan Samson

PREFACE

Outline

- A. THE POLITICAL AND THE PHILOSOPHIC LIVES (ix-xiii)
1. Holding Theory and Practice Together
 2. Lifelong to a Full and Happy Existence
 3. **Henry Kissinger**
 - a. Scholars vs. statesmen
 - b. Policymaker has responsibility for the worst that could happen
 - c. World of the contingent
 4. **Max Weber**
 - a. Statesman that focuses too narrowly on ultimate consequences may damage goals and discredit them because responsibility for consequences is lacking
 5. Knowledge of Tragedy Can Never Be Far from a Statesman's Mind
 6. Cicero's Ideal Statesman
 - a. Need to learn how to operate within the limits of the possible
 7. Few Political Actors Are Remembered Both for Their Contributions to Political Thought and Distinguished Public Service
 - a. Marcus Tullius Cicero and Edmund Burke
 - b. Ineffectiveness of Plato, Tocqueville, and Weber
 8. Scholars as Advisers to Rulers
 - a. Some of the most influential thinkers had little or no practical political experience
 - 1) Hobbes, Rousseau, and Marx
 - b. Ideas lifted from their works may have far-reaching but unexpected effects
 9. Teamwork between Scholars and Statesmen
 - a. Justinian and Tribonian
 - b. Napoleon and Portalis
 - c. American founders
 - d. Eleanor Roosevelt and Charles Malik
 10. Biographical Essays
 - a. Perennial political arguments
 - b. Personal stories
 11. Interrogating Their Biographies
 - a. Speaking truth with measure
 - b. Unfavorable circumstances

Review

Henry Kissinger

Max Weber

INTRODUCTION

Outline

- A. **THYMOS AND EROS** (3-7)
1. *Thymos*
 - a. Spiritedness; love of fame
 - 1) *Eros* of the mind
 2. Plato's Disillusion and Turn to Philosophy
 - a. Two trips to Syracuse
 - b. *Seventh Letter*
 - c. *The Laws*
 3. **John Locke**
 - a. Glorious Revolution
 4. Alexis de Tocqueville
 - a. *Democracy in America*
 - b. His marginal role in politics
 5. Max Weber
 - a. "Science as a Vocation"
 - b. His self-critical faculties disabled him from decisive action
 6. **Charles Malik**
 - a. Alfred North Whitehead
 - b. Universal Declaration of Human Rights
 7. Many Were Wide of the Mark in Judging What Would Be Their Principal Legacy
 8. Cicero
 - a. Life of public service
 - b. Julius Caesar
 9. **Edmund Burke**
 - a. British Raj
 - 1) Warren Hastings
 - b. *Reflections on the Revolution in France*

Review

John Locke

Charles Malik

Edmund Burke

CHAPTER 1: PLATO IN THE REAL CITY

Outline

- A. PLATO'S POLITICAL CAREER (9-14)
1. Max Weber
 - a. Qualities that make a first-rate thinker are not the same as those required for successful statesmanship
 2. Plato's Background
 - a. Service in the Peloponnesian War
 - b. The **Thirty Tyrants**
 - c. Callicles' taunt
 3. The Word "Tyrant"
 4. Democratic Regime
 - a. Trial and execution of Socrates
 5. Twelve Years of Travel
 6. **Syracuse**
 - a. **Dion**
 - b. **Dionysius I**
 - 1) His craving for flattery
 7. Dionysius's Rage

8. A Friend Repurchased Plato from Slavery
 9. Plato's Academy Founded
 - a. Aristotle [who later founded the Lyceum]
 10. Plato Repeatedly Immersed Himself in the Affairs of the "Real World"
 - a. Return to Syracuse twenty years after the death of Dionysius
 - b. Dion's invitation to meet Dionysius II
 11. Plato's Shame Lest He Be Regarded as a "Mere Man of Words"
 12. Royal Welcome
 - a. Dramatic change in the atmosphere at court
 13. Palace Intrigues
 - a. Dion exiled to Italy
 - b. Plato's stay extended
 - c. Whispering campaign
 - d. Plato's house arrest
 14. Dionysius Gives Up on Philosophy
 - a. Plato returns to Athens
 15. Dionysius Appeals for Plato to Return
 - a. Promise to restore Dion and his property holdings
 16. Plato Returns
 - a. Dionysius offers him money to denounce Dion
 - b. Plato barely escapes with his life
 17. Dion's Successful Coup
 18. Plato's Renunciation of Politics
- B. *THE LAWS* (14-21)
1. Plato's Last, Most Personal, Most Political Dialogue
 2. **Alfred North Whitehead**: Series of Footnotes on Plato
 - a. later borrowings
 - 1) Machiavelli's distinction between legislating for imaginary vs. real cities
 - 2) Hobbes's war of all against all
 - 3) Montesquieu on geography and culture
 - 4) Rousseau on subject vs. citizen
 3. Athenian Stranger Meets with a Cretan and a Spartan
 - a. Temple of Zeus on Crete
 4. Regime Outlined in *The Laws*
 - a. The Stranger is the closest we get to the voice of Plato himself
 5. Question of the Source of Excellent Laws
 - a. The gods?
 - b. Custom must have preceded law
 - 1) The key is good habits developed over time
 - c. Good government cannot be taken for granted
 6. Human Beings Are Endowed with a Divine Spark of **Reason**
 - a. This enables them to gain control over the most primitive impulses
 - b. **Nomos** (law) is suggestive of **Nous** (mind)
 7. **Hans-Georg Gadamer's** Lectures on the Late Dialogues
 - a. Monotheism
 - b. Kleinias and Megillos are reluctant to correlate law with will
 8. Humans Are Torn between Reason and Passions
 - a. Like puppets on strings
 - b. Wise laws require lawmakers
 9. Kleinias's Proposal to Found a City-in-Speech
 - a. His duty of establishing a new Cretan colony
 10. Purpose of Plato's **Academy**
 11. The Second-Best Polity
 - a. They recognize that success will be affected by the physical situation and
 12. Chance and Accident Are the Universal Legislators of the World

13.
 - a. Statesman is likened to the navigator of a ship [the Latin *gubernaculum* = rudder]
 Formation of Citizens Is Critical to the Common Good
 - a. **Law Warden** given charge of education [this anticipated Horace Mann's post of secretary to the Board of Education in Massachusetts (1837-1848), which he did not regard as a demotion from president of the Senate]
14. Education of Girls
15. Unwritten Customs Are the Bonds of the Entire Social Framework
16. Centrality of Education
 - a. The **aim of law** is to lead citizens toward virtue
 - b. The lawgiver must use both force and persuasion
17. True Doctor vs. the Slave Doctor
 - a. Slave doctor
 - b. Free man's doctor
18. Legislator for Free Men
19. Rule of Law Is of Paramount Importance
20. Project of Making Laws for a Real City Is Always a Work in Progress
 - a. Amending the constitution
21. Plato's Dialogue Ends with a Resonating Silence
22. Socrates Throws Us Both onto Ourselves

Review

Thirty Tyrants
Dionysius I
nomos
Law Warden

Syracuse
Alfred North Whitehead
nous
aim of law

Dion
The Laws
Hans Georg Gadamer

CHAPTER 2: MARCUS TULLIUS CICERO: POLITICS IN A DYING REPUBLIC

Outline

- A. REPUBLICAN ROME (23-26)
 1. Any List of Superstars of Politics and Philosophy
 - a. **Marcus Tullius Cicero** would hold a place of honor on any such list
[*Pillar of Iron* is the title of a popular biographical novel]
1) [And so should Abraham Kuyper]
 - b. His eminence as an orator, senator, and consul
 2. **Aristotle's View of the Highest Callings**
 - a. Cicero never lost his desire for public honor
 3. Moral Excellence Is a Matter of Practice
 4. Cicero's Ideal Statesman
 - a. Philosophy regarded as the handmaiden to politics
 - b. Cicero's rare combination of *thymos* with *eros* of the mind
 - c. His decline is fortunes
 - 1) ***Dream of Scipio***
 - 2) Transience of worldly success
 5. Ethos of Republican Rome
 - a. Sophisticated legal system and elaborate form of mixed government
 - b. **Senate**
 - c. Consuls
 - d. Assembly of **Tribunes**

6. Genius of Roman Jurists
 - a. **Ratio scripta** [the revived Code of Justinian via a supposed *lex regia*]
7. The **Republic** Was a Modified Form of Aristocracy or Oligarchy
 - a. Checks and balances
 - b. Mixed regime
 - c. Rule of law
8. Gradual Collapse of the Traditional System
 - a. Breakdown of order and legality
- B. CICERO'S EDUCATION AND PREPARATION (26-31)

Michael Grant: "The influence of Cicero upon the history of European literature and ideas greatly exceeds that of any other prose writer in any language"

 1. Precocious First-Born Son of a Prosperous Landowner
 2. Studies in Rome
 - a. Passion for excellence
 - b. Disposed to mirth and pleasantry
 3. Career as an Advocate
 - a. Terentia
 - b. Health breakdown
 - c. Departure from Rome
 4. Travels to Greece and Rhodes
 - a. Criticism of Sulla
 - b. Study with the most famous philosophers and orators of the day
 5. **Quaestor** [in charge of financial affairs, originally an investigatory office] in Sicily [first office in the *cursus honorum* with membership in the senate]
 - a. Reputation for honesty and diligence
 - b. Discovery of the burial place of Archimedes
 6. Disappointing Return to Rome
 - a. Hardly anyone knew of his achievements in Syracuse
 - b. Resolve to make himself visible
 7. Cicero Established a Reputation as the Most Brilliant Advocate in Rome
 - a. Prosecution of Gaius Verres
 - 1) Victory over the orator Hortensius
 - b. Model for Edmund Burke's prosecution of Warren Hastings
 8. Election as **Consul**, 63 BC
 - a. Suppression of the **Cataline** conspiracy
 - 1) Execution of five co-conspirators without trial
 9. Rome's Deepening Social Ills
 - a. Conquests had expanded Rome's dominion
 - 1) Corruption
 - b. Treasury drained by foreign wars
 10. Stage Was Set for the First Seizure of Power by Three Patrician Leaders
 - a. **First Triumvirate** [three men, heroes] of Pompey, Crassus, and **Julius Caesar**
 - b. Retroactive [*ex post facto*] law condemning Cicero
 - c. Exile and confiscation of property
- C. WRITINGS (31-33)

John William Mackail: "Cicero's unique and imperishable glory is that he created the language of the civilized world, and used that language to create a style which nineteen centuries have not replaced, and in some respects have hardly altered."

 1. **Pompey** Pardons and Recalls Cicero to Rome
 - a. Restrictions on his political opportunities
 - b. *De Republica*
 - c. Cicero saw Roman laws as a collective achievement
 - 2., His Expressions of Regret for the **Vanished Virtues** and Customs of Former Times
 - a. "It is because of our own **vices** . . . that we preserve the Republic in name only"
 3. *Dream of Scipio*

- a. Call to stewardship
 - b. Dante's Homage to This Passage
- D. *DENOUEMENT* (33-35)
 - 1. Posting to Cilicia
 - a. "Now I shun the sight of the scoundrels who swarm on every side"
 - b. Boyish hope destroyed: "Always to be the best and far to excel all others"
 - 2. Caesar-Pompey Falling Out
 - 3. Caesar's Dictatorship
 - 4. Caesar's Assassination
 - a. Spokesman for the Senate
 - b. **Philippics** [tradition of scathing speeches begun by Demosthenes] against **Mark Antony**
 - 5. **Octavian's** Alliance with Antony
 - 6. Cicero's Murder
 - 7. **Augustus Caesar**
 - 8. Surviving Letters
- E. "HOW SHOULD I 'PACKAGE' MYSELF?" (35-36)
 - 1. Garb of Future Lawyers
 - 2. Cicero's Friends Urged Him to Change His Surname
 - 3. His Change of Speaking Style
- F. "POLITICS IS A DIRTY BUSINESS"
 - 1. Many of the Most Capable Citizens Were Declining to Enter Public Life [This was noticed about America in the 19C by Tocqueville and Lord Bryce]
 - a. **Epicurean** philosophy came into vogue
 - 2. Atticus
 - a. Valued advisor to Cicero
 - b. His aloofness from politics
- G. "IS THE LIFE OF A POLITICIAN COMPATIBLE WITH A SATISFYING PRIVATE LIFE?" (37)
 - 1. Personal Life
 - a. Terentia
 - b. Marcus [as Consul he announced the defeat of Antony by Octavian in 30BC]
 - c. Tullia
 - d. Publilia
 - 2. Loneliness of a Life Lived in the Public Eye
- H. "WILL I LOSE SIGHT OF MY HIGHEST AIOMS, BETRAY MY PRINCIPLES, EVEN LOSE MY SOUL AS I STRIVE TO GET AND KEEP PUBLIC OFFICE?" (38-39)
 - 1. Wrestling with How Far to Compromise
 - a. **"On Duties"**
 - b. Difficulty of assessing situations
 - c. Lack of certainty
 - 1) Need to seek the highest degree of probability
 - 2. Changes of Tack
 - 3. He Never Abandoned His Effort to Preserve Republican Principles
- I. "COULD I REALLY MAKE A DIFFERENCE UNDER PRESENT CIRCUMSTANCES, OR ARE CONDITIONS SUCH THAT MY EFFORTS WOULD PROBABLY BE WASTED?" (39-41)
 - 1. Cicero Always Sought Opportunities to Shift Probabilities in Favor of Republican Forms
 - a. His resignation toward the end
 - 2. Legacy
 - a. Compendium in Latin of the teachings of various Greek schools of philosophy
 - 3. St. Augustine's Account of an Encounter with Cicero's Work
 - a. *Hortensius*
 - 4. More Than a Popularizer of Greek Knowledge
 - a. A synthesis of their leading ideas and methods
 - 5. Cicero's Expansion of the Capabilities of the Latin Language
 - a. His neologisms: quality, essence, moral

6. Caesar's Testimonial
7. Contributions to Political Theory
 - a. Cicero gave form and expression to the idea of universal **natural law**
 - b. Spark of divinity in man
 - c. Bond of community
8. Comparison with Edmund Burke

Review

Marcus Tullius Cicero	Aristotle	highest callings
<i>Dream of Scipio</i>	Senate	Tribunes
<i>ratio scripta</i>	Republic	Quaestor
Cataline	First Triumvirate	Julius Caesar
Pompey	vanished virtues	Philippics
Mark Antony	Octavian (Caesar Augustus)	"On Duties"
natural law		

CHAPTER 3: JUSTINIAN, TRIBONIAN, AND IRNERIUS: HOW STATESMEN AND SCHOLARS RESCUED ROMAN LAW (TWICE)

Outline

- A. CLASASICAL PERIOD OF ROMAN LAW (43-48)
 1. Romans' Intense Interest in Law and Administration
 2. Roman Law Was One of the Wonders of the World
 - a. Customs and decrees were woven into a coherent system
 - b. Romano-Germanic **civil law**
 3. The **Twelve Tables** [originally composed by the **Decemvirs**, the ten lawgivers]
 - a. Civil procedure
 - b. Cicero's admiration
 - c. Prohibition of **special legislation**
 - 1) Rulings regarding a citizen's life can only be instituted by the chief Assembly
 - d. Young people were originally required to memorize the laws
 4. Legal System's Growing Complexity
 - a. Emergence of **jurisconsults**
 5. The **Forum**
 - a. Orators and spectators
 6. Leading Advocates
 - a. Rhetorical skills
 - b. Expert jurisconsults
 - c. Jurisconsults enjoyed less prestige than the orator-advocates
 7. Growing Status of Jurisconsults
 - a. Monopoly on technical information and legal experience
 - b. Law schools
 - c. Professional judges
 - d. **Praetors**
 - e. Their formal opinions were made binding on judges in civil cases
 8. Evolution of Law into a Body of Practical Wisdom
 - a. **English common law**
 9. Classical Period

- a. Emergence of a high legal culture
- b. Treatises
- 10. **Papinian**
 - a. Emperor Caracalla
- 11. Dawn Legal Science in the World
- 12. Deterioration of Legal Standards after 235 AD
 - a. Corruption by a multiplicity of laws, arts, and vices
 - b. Sordid and pernicious trade
 - c. Advocates
- 13. Chaos That Accompanied the Germanic Invasions
 - a. **Gaius's *Institutes*** is the only nearly complete surviving work
- B. COLLABORATION OF JUSTINIAN AND TRIBONIAN (48-56)
 - 1. **Justinian**
 - a. Severe problem of access to legal materials
 - b. Gibbon: Infinite variety of legal materials filled many thousands of volumes
 - c. Judges were reduced to the exercise of their illiterate discretion
 - 2. Assembly of the Most Learned Legal Scholars of the East
 - a. **Tribonian**
 - 3. Commission Appointed to Prepare a New Legislative **Code**
 - a. Tribonian appointed Quaestor
 - 4. Commission to Prepare a Comprehensive Digest of Legal Opinions
 - 5. Formal Instructions
 - a. Salutation
 - 1) Confused state of the laws
 - 2) Daunting task
 - 6. Why Tribonian Was Appointed to Direct the Project
 - a. His excellent work on the code
 - b., Assembly of scholars and judges
 - c. Commission
 - 1) Read and digest the whole substance of the laws
 - 2) Prepare an introductory textbook
 - 7. Three-Year Project
 - a. Fifty books arranged under 432 topical headings
 - 1) *Pandects*
 - 2) ***Institutes***
 - 8. Justinian's Institutes Made the Basis of All Legal Studies
 - 9. Presentation of the *Digest* to the Senate and the People
 - 10. Changing Character of Law
 - 11. The ***Digest*** Was Given the Force of Law
 - a. Justinian's concern that interpretation should undermine his accomplishment
 - 1) No commentary was permitted [cf. the King James Bible, which allowed no footnotes]
 - 2) Analogy to Ahasuerus [Mao's Little Red Book was allegedly more effective]
 - 12. Work on a New Code Was Commanded
 - a. Santa (or Hagia) Sophia
 - 13. The ***Novels***
 - a. ***Corpus Juris Civilis***
 - b. It is mainly of historical interest
 - 14. Criticism of the Code and the Novels by Contemporary Scholars of Roman Law
 - a. Insistence upon an unprincipled equity
 - 15. Justinian's Digest Has Had Lasting Significance
 - a. It is a blend of Roman legal principles with Greek and Christian thought
 - 1) Jurists regarded as priests of this art
 - b. Justice: Principle of right

- c. Distinction between public and private law
 - 1) **Jus civile**
 - 2) **Jus gentium**
- 16. Revival of Roman Law in the 11C [Matilda of Tuscany played a role]
- 17. Roman Law Was Imperilled by Subsequent Invasions by Lombards, Slavs, and Arabs
- 18. Impact of the Romanization of Europe
 - a. Crude versions of Roman legal rules mingled with German customary law
 - b. Result: **Romano-Germanic legal tradition** of continental Europe
- C. REVIVAL OF THE *CORPUS JURIS CIVILIS* IN THE WEST (56-59)
 - 1. Discovery of a Manuscript Copy of the *Corpus Juris Civilis* Near Pisa
 - a. Host of legal needs was created by the **revival of commerce**
 - 2. Reception by Renaissance Jurists
 - a. **Irnerius** in Bologna
 - 1) *Ratio scripta*
 - 3. The Calderini Family
 - a. Giovanni
 - b. Novella and Bettina
 - 4. Legal Education
 - 5. **Glossators**
 - a. Interpretation of obscure passages
 - b. Glosses: annotations or marginal notes [marginalia]
 - c. Monument in Bologna: *Tombe dei Glossatori*
 - 6. **Commentators**
 - a. **Bartolus**
 - 7. New Spirit of Rational Inquiry and Speculative Dialectic
 - a. Thomas Aquinas
 - 8. Law Students from around Europe
 - a. Fusion between medieval Romano-Germanic customary law and the new learning based in Roman law
 - 9. Wide Acceptance of Roman Private Law
 - a. Reception of Roman Law
- D. THE **NAPOLEONIC CODE** (59-61)
 - 1. **Jean Portalis**
 - a. Influence of Montesquieu
 - 2. Report
 - 3. Napoleon's Role
 - 4. His Efforts to Protect It from Distortion
 - 5. True Constitution of France
 - 6. Its Spread
 - 7. **Civil Law Systems** [also known as code law]
 - 8. Public Law Was Prudently Left Aside by Jurists

Review

civil law	Twelve Tables	Decemvirs
special legislation	jurisconsults	Forum
English common law	Praetors	Papinian
Justinian	Tribonian	Code
Institutes	Digest	Novels
Corpus Juris Civilis	<i>jus civilis</i>	<i>jus gentium</i>
Romano-Germanic legal system	Irnerius	Glossators
Commentators	Bartolus	Napoleonic Code
Jean Portalis	civil law systems	

CHAPTER 4: ADVISING THE PRINCE: THE ENIGMA OF MACHIAVELLI

Outline

- A. MACHIAVELLI: FLORENTINE CIVIL SERVANT AND DIPLOMAT (63-65)
 - 1. Local Wars Weakened Italian States
 - a. Resulting in foreign incursions
 - 2. Overthrow of **Medici Family** and Establishment of **the Florentine Republic**
 - a. **Girolamo Savonarola**
 - 1) Attacks on Rodrigo Borgia [Borja] (**Alexander VI**)
 - b. Bonfire of the Vanities
 - c. Handing and Bonfire of Savonarola at Piazza della Signoria
 - 3. Ten of War
 - a. Machiavelli as secretary
 - 4. **Piero Soderini**, Gonfaloniere
 - 5. Machiavelli's Diplomatic Missions
- B. **CESARE BORGIA** (65-68)
 - 1. Illegitimate Son of Alexander VI
 - 2. His Legendary Cruelty
 - a. Machiavelli depicted him as superhuman in his courage
 - 3. Tertian Fever, 1503
 - a. Death of his father
 - 4. Giuliano della Rovere Sought Election as **Julius II**
 - a. Duke Valentino cultivated as a pope-maker
 - 5. Machiavelli Sensed Trouble
 - 6. The Lessons Machiavelli Drew
 - a. **Borgia as a model** for mimetic desire [cf. René Girard's *A Theater of Envy*]
 - 7. Machiavelli on Borgia's Cruelty
 - a. Favorably contrasted with the Florentine people permitting Pistoia [the home of the pistol] to be destroyed due to factional infighting, 1502-1503
 - 8. Borgia Underestimated Julius II
- C. MACHIAVELLI'S FOCUS AND LIMITATIONS (68-72)
 - 1. Machiavelli's Disinterest in the Arts
 - 2. **Filippo Brunelleschi**
 - 3. Study of Classical History
 - 4. Advantage of Using **Citizen Soldiers**
 - 5. Soderini Deposed and Exiled
 - a. His lack of ruthlessness
 - 6. Torture via *Strappado*
 - 7. Machiavelli's Release from Prison
 - 8. Literary Accomplishments
 - 9. His Attempts to Ingratiate Himself with the Medicis
 - a. Poetic celebration of Leo X
 - 10. Crumbs That Fell from the Medici Table: Rendering Minor Service
- D. POLITICAL WRITINGS: MACHIAVELLI AS THE GREAT DISCOVERER (72-76)
 - 1. **New Political Science**
 - a. His pretension to superior realism
 - 2. Classical Philosophers Were Far from Naïve about Political Realities
 - a. Plato's *The Laws*
 - 3. **Plato's Seventh Letter**: Danger of Political Naïvete
 - a. Dion
 - b. Cicero's View

4. Centrality of Virtue for the Classical Writers
 - a. Search for the best ways to achieve man's highest goals
 - b. Machiavelli asserted that the ancients demanded too much of human nature [cf. Dostoevsky's Grand Inquisitor]
 - c. Politics should be based on **empirical observation**, *i.e.*, science
 - d. Classical rejoinder: Statesmen must foster conditions for cultivating the good life
 - e. Augustine's emphasis on divine grace
5. Machiavelli's Solution: Lower the Bar
 - a. Selfish passions prevail over reason
 - b. Rulers must be feared
 - c. Ernest Fortin: His moderate ideals and absolute expectations
 - d. Wisdom must yield to canniness [cf. Machiavelli's reworking of Cicero's simile of the lion and the fox, combining strength and cunning]
 - e. Virtue regarded as courage and political skill [to overcome *Fortuna*]
6. Machiavelli Saw Little Need to Discuss Nurture and Education
 - a. A prince should only appear to be religious
7. Machiavelli's **Silence about the Day of Judgment**
 - a. *Mandragola* [*The Mandrake Root*] mockingly expresses his views
 - b. His Insouciance towards religion
 - c. Spoof of Cicero's account of Scipio's dream
8. Veneration of Classical Philosophers
 - a. **Letter to Vettori**
- E. MACHIAVELLI THE ENIGMA (76-80)
 1. Harvey Mansfield
 - a. Bad on the surface, and even worse underneath
 2. Pasquale Villari
 - a. Machiavelli's dream of unifying Italy would have led to the reestablishment of morality
 3. *Discourse*
 - a. Roman Republic as an ideal
 - b. Yet the *Discourses* and the *Prince* have the same message about human nature
 4. Mansfield: Machiavelli Was the First to Advise Acting without Respect
 5. The *Prince* Was Addressed to the **Challenges Faced by New Princes**
 - a. Well-established princes were advised not to depart from the order of their ancestors
 6. Fragments of Machiavelli Took Root in the Minds of Other Thinkers
 7. *Letter to Raffaello Girolamo*
 - a. Cultivate a reputation for trustworthiness but learn to dissemble
 8. Plato's *Seventh Letter*
 - a. Speak truth to power
 - b. Never pander to power
 9. Neither Plato nor Machiavelli Provide Much Guidance on Everyday Dilemmas
 - a. Virtuous people should agonize over whether they can maintain their integrity [cf. Frodo in *Lord of the Rings*]
 10. Aristotle: Virtuous People Often **Decline to Enter Public Service**
 11. Need for Public Servants Who Can Negotiate Moral Landmines
 12. Hobbes's Root and Branch Attack on Traditions

Review

Medici family	Florentine Republic	Alexander VI
Girolamo Savonarola	Cesare Borgia	Piero Soderini
Julius II	Borgia as a model	Filippo Brunelleschi
citizen soldiers	new political science	Plato's <i>Seventh Letter</i>
silence about day of judgment	letter to Vettori	challenges faced by new princes

Aristotle on virtuous people

CHAPTER 5: THE SCHOLAR VS. THE STATESMAN: THOMAS HOBBS AND EDWARD COKE

Outline

- A. EPISODES OF OUTRIGHT CONFLICT BETWEEN THE FORUM AND THE POWER (81)
 - 1. Vendetta of **Thomas Hobbes** against **Edward Coke**
- B. EDWARD COKE (81-84)
 - 1. Rivalry between the Law Courts and the Ecclesiastical Courts
 - a. Coke ruling against a Church tribunal in a **common law** case: *Prohibitions del Rey*, 1608
 - b. Coke's denial of the king's jurisdiction
 - c. King's intervention justified on the grounds of his reason
 - d. Coke's distinction between natural reason and artificial reason
 - e. Implication: This ruling would place the king under law
 - f. Coke cites **Henry de Bracton**
 - 1) King is not under any man, but God and the law
 - 2. Coke's Dismissal in 1616
 - a. Lord Chancellor **Francis Bacon**
 - 3. Coke's Defense of Parliament's Prerogatives
 - 4. Stint in Prison
 - a. **Magna Charta**: the Great Charter of Liberty University
 - b. Coke regarded by James I as "an oracle among the people"
 - 5. **Petition of Right**, 1628
 - 6. Coke: Courageous Champion of the Rule of Law
 - a. **Dr. Bonham's Case**: judicial review
 - 7. Bacon's Animosity
- C. TRANSFORMATION OF COKE AFTER HIS APPOINTMENT TO THE BENCH IN 1606 (84-86)
 - 1. Role as Attorney General in Prosecuting the **Gunpowder Plot**
 - a. Sentence pronounced upon **Guy Fawkes**
 - 2. Chief Judge of the Court of Common Pleas
 - 3. James's Determination to Rule by Royal Decree
- D. THOMAS HOBBS (86-90)
 - 1. Hobbes's Immersion in the New Age
 - a. He fled to Europe in 1640
 - 2. *Leviathan* (1651): Prescription Was to Submit to an All-Powerful Sovereign
 - 3. **Natural Equality**
 - a. In a **state of nature**, no one is strong or smart enough to be safe from peril
 - 4. **Reason** Is a Faculty That Is in the Service of the Passions
 - 5. **Law** Is the **Command of the Sovereign**
 - a. Nothing Is defined as just or unjust except as commanded by the sovereign
 - 6. Miseries of the **Master-less Men**
 - 7. Right of **Self-Preservation**
 - 8. **Consent** Is the Basis Even of Absolute Sovereignty
 - 9. Theory of **Natural Right**: Obligation of Subjects Lasts Only as Long as the Sovereign Is Able to Protect Them
- E. ENGLISH COMMON LAW SYSTEM: THE COLOSSUS THAT BLOCKED RECEPTION OF HOBBS'S IDEAS (90-93)
 - 1. Hobbes's Advocacy of Absolute Sovereignty Found No Traction in the English Forum
 - a. Hobbes's idea of the law as mere command was profoundly at odds with the

- concept of judge-made common law
2. Hobbes's Attack on English Constitutionalism
 - a. His contention that the sovereign cannot be subject to civil laws
 - b. His rejection of **higher law**
 3. Hobbes: **No Inalienable Rights** Except the Right of Self-Preservation
 - a. Men are deceived by "the specious name of liberty"
 - b. Hobbes blamed the mischief of continental learning and the Romans
 4. The Idea That One's Duty to God Takes Precedent Is an Evident Lie
 - a. Liberty of the subject lies only in doing what the sovereign has not forbidden
 5. Hobbes Repudiated the Traditional Idea of Law as the Custom of the Realm
 - a. He scoffed at precedent as something childish
 - b. Hobbes conceded it only with the **consent of the sovereign**
 6. Lawyers Rejected This Line of Argument as Patently Disingenuous
 - a. They evoked a developing body of judicial decisions that both afforded predictability and adapted time-tested principles to new circumstances
 - b. Hobbes: Lawyers shuttle between reason and precedent
 7. Coke: Reason of the Law Is **Corporate Reason**
 - a. A dynamic, potentially self-correcting, system of practical reason
 8. Hobbes's Concept of Reason: Calculation in the Service of Desires
 - a. He failed to recognize that the common law tradition was a model of the **dialectical reasoning** embodied in Plato's dialogues
 - b. Similarities to and differences from the scientific method
- F. HOBBS'S ACCOMPLISHMENT (93-97)
1. Lack of an Impact on the Politics of His Day
 2. His Tract against Coke
 3. He May Have Helped End the Respectability of Cynical Ideas
 4. But Hobbes Was Also Influential in Rationalizing the Revolution of Henry VIII
 5. Peter Laslett's Analysis: The abstract nature of Hobbess ideas prevented them from being implemented in England
 6. **William Blackstone**: The durability of the common law endeared it to the people
 7. For Hobbes, law had been the instrument of the sovereign [cf. the *lex regia* of the revived Roman law]; for Coke and Locke, it is a bulwark of the citizens' liberties

Review

Edward Coke and Hobbes's vendetta	Henry de Bracton
common law case, 1607 [not 1608]: Prohibitions del Roy [later seized by Charles I, 1634-1641]	
Francis Bacon (Lord Chancellor, 1618-1621, had wooed but lost the woman who married Edward Coke)	
Petition of Right, 1628	Dr. Bonham's Case
Gunpowder Plot and Guy Fawkes	Chief Judge of the Court of Common Pleas, 1606
Thomas Hobbes	natural equality of humans, male and female
state of nature	reason serves the passions
law is the command of the sovereign	master-less men
right of self-preservation	emphasis on consent as the basis of government
theory of natural right	what actually limits the power of the sovereign
no "higher law"	no inalienable rights except that of self-preservation
the mischief of continental learning and Roman ideas about liberty	
rejection of common law concepts of the custom of the realm and precedent	
Coke's and Hobbes's different concepts of reason	
Machiavelli's and Hobbes's attitudes toward Christians	
rationalization of the revolution of Henry VIII	
Peter Laslett: why Hobbes's ideas were not implemented in England	
William Blackstone on the common law	

CHAPTER 6: JOHN LOCKE: THE DON HEARD ROUND THE WORLD

Outline

- A. LOCKE'S KEY ROLE IN THE GREAT PUBLIC EVENTS OF HIS TIME (99-100)
 - 1. Young Locke Sought an Academic Career
 - a. He excelled at rhetoric, philosophy, and medicine
 - b. Lecturer at Christ Church, Oxford: He taught Greek, rhetoric, and philosophy
 - c. Secretary to an English envoy on a mission to Germany, 1665
 - 2. House Call to Chancellor of the Exchequer, **Lord Ashley**, 1666, soon to be the Earl of Shaftesbury
 - a. Ashley's restoration to health
- B. THE SHAFTESBURY HOUSEHOLD (100-102)
 - 1. Ashley's Elevation to Lord Chancellor [a post earlier held by Francis Bacon]
 - a. Locke's role in preparing a constitution for the colony of Carolina
 - 2. Shaftesbury Fell out with Charles II in 1675 over the King's Catholic Alliances
 - a. His efforts to build a constitutionalist organization, later known as the **Whig party**
 - b. Locke pursued his philosophical and scientific students for the next four years in France
 - c. Locke returned in 1679 during the turmoil over the imminent accession to the throne by James, the Duke of York, a Roman Catholic, and the brother of Charles II, who did not have a legitimate heir
 - d. **Exclusion bill** was aimed at denying the throne to
 - e. Locke worked on his *Two Treatises of Government* during this tumultuous period
 - 3. Charles Forestalled Passage of the Exclusion Bill by Dissolving Parliament
 - a. Shaftesbury was indicted for treason and fled to Holland
 - b. Locke also took refuge there
- C. **JAMES II AND THE GLORIOUS REVOLUTION** (102-04)
 - 1. James Acceded to the Throne in 1685
 - a. Locke Devoted Much of His Time to *Essay Concerning Human Understanding*
 - b. He gave up his position at Oxford
 - c. He lost Shaftesbury's patronage, his career as a physician, and his home
 - 2. Holland Became a Hotbed of Revolutionary Activity
 - a. Locke was instrumental in obtaining financial aid for the insurrectionists
 - 3. Abdication of James II and the Accession of William (of Orange) III and Mary II
 - a. Parliament set the terms
 - 4. Publication of All Three of Locke's Major Works in 1689
 - a. *Letter Concerning Toleration* was published anonymously
 - 5. Battle of the Boyne, 1690: James forces defeated
 - 6. The *Two Treatises* Remained Somewhat Radioactive
 - a. Implications of **consent of the people**
 - b. Natural rights, including the **right of resistance**
- D. ACCESSION OF **WILLIAM OF ORANGE** AND LOCKE'S LAST ACT (104-105)
 - 1. The first constitutional monarch now leaned toward the Tories
 - 2. Lord John Somers
 - a. Masterful negotiator who helped secure Parliament's acceptance of James's abdication and helped drafted the Bill of Rights of 1689
 - 3. Worsening Asthma Led Locke to Move to the Country
 - 4. Locke as Commissioner of Appeals for Excise
 - 5. His Service on the Commission on Trade and Plantations
 - 6. His Earlier Sale of His African Investments
- E. THE LEGACY OF LOCKE'S IDEAS (105-12)

1. The Effects of Locke's Ideas Were Most Pronounced in America
2. *First Treatise*: Demolition of Sir **Robert Filmer's** Defense of Rule by **Divine Right**
3. *Second Treatise*
 - a. Like Hobbes, Locke begins by telling a reverse Garden of Eden story
 - b. Innocent delights of the **state of nature**
 - c. Inconveniences of private enforcers of the law: "very unsafe, very insecure"
[This should be a warning against Marx's idea of the withering away of the state]
4. **Why Men Enter Civil Society**: Inclination for the Society of Others
5. Men Establish Governments to Protect Their **Natural Rights**: life, liberty, and property
6. **Property Rights** Are Anterior to Government
 - a. Exclusive right established by **mixing labor** with what is removed from its natural state
 - b. Supreme Court, 2001: A State cannot redefine property rights in an effort to prevent future claims on the basis of the Takings Clause
 - c. Even in the state of nature, people had consented to the unequal possession of the goods of the earth through the use of money
7. Locke Glided over the Role of Force in Some of These Acquisitions
 - a. Conquest cannot serve as a legitimate basis for government
 - b. **Problem of the legitimacy of titles to land acquired by force**
8. Locke's Version of "A Rising Tide Raises All Boats"
 - a. God gave the world to the use of the industrious and rational
 - 1) "He who appropriates land to himself by his labor, does not lessen but increases the common stock of mankind"
 - b. Ernest Fortin: Clever way of reconciling selfishness with altruism
 - c. Locke's silence concerning the way in which the duty of charity limits the absoluteness of property rights
9. Property Is the **Prototypical Right**: "The Great and Chief End"
10. Problem: What about Property in One's Own Body?
 - a. Continental European legal systems treated the human body as *hors de commerce* [only available from the seller directly] and not subject to ownership by anybody
 - 1) Can one sell oneself into slavery?
11. Locke Was Aware of the Difficulty Posed by the Property Metaphor
 - a. Locke had to further specify that freedom did not include the power to enslave oneself
12. The *Second Treatise* Should Be Regarded as a Political Tract Rather Than a Philosophical Work
 - a. Locke sought to assist in the transition from relatively unfettered royal power to constitutional monarchy
 - b. "To help delegitimize absolute monarchy, Locke found it useful to postulate the existence of natural rights that exist prior to and independent of the sovereign state"
- 1) This is why **H** problem of the legitimacy of titles to land acquired by force **obbes** condemned natural rights theories
13. Locke's Rhetorical Astuteness
 - a. He knew his audiences
14. Another Puzzling **Omission**
 - a. Why did he not draw on the long **history of English constitutionalism**? [cf. M. Stanton Evans]
 - 1) The middle section of the work is lost
15. Peter Laslett: Its Abstraction from English History Gave the Work Strong **Transnational Appeal**
 - a. Edmund Burke pointed out some of the dangers of this abstraction after some of Locke's ideas had migrated to France, where they were stripped down,

- radicalized, and shipped back to England
16. Locke Left His Mark as Both Scholar and Statesman
- He emphasized in the *Essay on Human Understanding* the importance of practical wisdom in human affairs
 - The man of action and the man of contemplation are both diminished if they are shut up in their own worlds
 - Few scholars or statesmen have bridged the worlds of forum and tower as successfully as he

Review

Lord Ashley: Earl of Shaftesbury and Lord Chancellor	Whig party
exclusion bill	James II
right of resistance	William of Orange
divine right	why men enter civil society
three natural rights	mixing labor with things taken from the natural state creates property
problem of the legitimacy of titles to land acquired by force	property: Lives, Liberties, and Estates
property: the prototypical right	human body: <i>hors de commerce</i> (not for trade)
why Hobbes condemned theories of natural rights	Locke's transnational appeal
Locke's omission: failure to draw on the long tradition of English constitutionalism	

CHAPTER 7: JEAN-JACQUES ROUSSEAU: POLITICAL PHILOSOPHY WITHOUT POLITICS

Outline

- A. THE ARDOR AND CONTEMPT ROUSSEAU INSPIRED (113-14)
- Napoleon Bonaparte on Rousseau's Responsibility for the French Revolution
 - Jean Portalis on Rousseau's "False Speculative Philosophy"
 - Every revolutionist was transported over Rousseau's anarchical theories
 - Paul Johnson sees him as the archetype of the secular intellectual that filled the vacuum left by the decline of clerical influence
 - Voltaire and Frederick the Great
 - Denis Diderot and Catherine the Great
 - Josph II and the Physiocrats
- B. ROUSSEAU BURST ON THE SCENE IN 1749 (114-16)
- Les Lumières*
 - Academy of Dijon's Essay Contest on Whether the Sciences and Arts Had Contributed to the Improvement of the Mores
 - First Discourse** Won the Prize
 - Rousseau contended that manners and morals had declined the aspersions on patriotism and religion cast by contemptuous scribblers [cf. Roger Scruton's culture of repudiation, Michael Polanyi's moral inversion, and T. S. Eliot's *After Strange Gods*
 - Echoes of the Apostle Paul: What progress can there be without progress in goodness?
 - John Stuart Mill: Rousseau's comments "exploded like bombshell," "dislocating the compact mass of one-sided opinion"
 - His views were not sounder but they delivered a "salutary shock"
 - Rousseau Challenged the Scientific Rationalism of Rousseau and Others
 - He Became the Preeminent Critic of Modernity But Was No Traditionalist
 - Secularized biblical and modernized classical themes were deployed in a

powerful critique of the faith in reason

C. BIOGRAPHICAL SKETCH (116-17)

1. Born in John Calvin's Geneva [K-L's Second John of Ge=eva]
2. **Madame de Warens** and the Duchy of Savoy
3. Rousseau's Itinerant Employments
4. Diderot and **Thérèse Le Vasseur**
5. Period of Creativity, 1749-1762
6. Physical and Mental Decline
 - a. *Confessions*
7. Posthumous Popularity
 - a. *The Social Contract*
8. Rousseau's Influence on the French Revolution
 - a. Tocqueville: Revolutionaries' rhetoric was borrowed largely from the books they read
 - b. Their fondness for overbroad generalizations, cut-and-dried legislative systems, pedantic symmetry, and contempt for hard facts [cf. Julien Benda's *Treason of the Intellectuals* and Thomas Molnar's *Decline of the Intellectuals*]
 - 1) "What is a merit in the writer is a vice in the statesman"
9. Plato, Rousseau, and Nietzsche All Saw Deeply into the Most Important Questions and Wrote about Them Beautifully
 - a. **Allan Bloom**: His influence is well-digested into the bloodstream of the West

D. ROUSSEAU'S INFLUENCE ON POLITICAL THOUGHT: *THE SECOND DISCOURSE* (118-22)

1. His Early Modern Predecessors—Machiavelli, Hobbes, Locke, and Spinoza—Broke with the Virtue-Based Political Theories of the Ancients
 - a. They developed theories of government they supposed were based on human nature as it is
 - b. Rousseau attacked their new science of politics at its foundations
2. Second Discourse: ***Discourse on Inequality***
 - a. Scoffs at the **state of nature** as mythic tales told by Hobbes and Locke
 - 1) They "carried over to the state of nature ideas they had acquired in society; they spoke about savage man but they described civilized man" [cf. Michel de Montaigne's *Essay on Cannibals*]
 - 2) The complex fears and desires they attributed to our early ancestors could only have been produced by society (cf. Montesquieu)
 - b. Rousseau's version of prehistory
 - 1) **Earliest human** was an animal-like creature who possessed a natural feeling of compassion
 - 2) The transition from this primitive state into civil society represented a **"loss of real felicity"**
3. **Social Contract Theories** of Rousseau's Predecessors
 - a. What drew humans out of their primeval state was **perfectibility**, not rational calculation
 - 1) The distinctly human capacity to change and develop, to transform oneself and to be transformed
 - b. **Immanuel Kant's** admiration for the *Second Discourse*
4. Development of Human Faculties
 - a. Origin of language, family life, and tribal groups
 - b. **Fatal accident**: Invention of **agriculture and metallurgy**
 - 1) "It is iron and wheat which have civilized men and ruined the human race"
5. Origin of **Property**
 - a. Civil society, not nature, led to a state of affairs in danger of degenerating into war; it begat governments and laws, inequality, and resentment
6. Rousseau Insisted That There Is **No Escape from History**
 - a. He did not exhibit the subsequent romantic nostalgia for the simple life

- b. Natural man had been self-sufficient; man in civil society is dependent even to the point of living “in the opinion of others”
 - 7. Rousseau Rejected Older Ideas of a **Natural Law** Discoverable through Right Reason
 - a. But he also exalted solitude and self-sufficiency, anticipating later hyper-individualism
 - 8. Allan Bloom: The *Discourse* was the most radical work ever written
 - a. It contained the germs of themes Rousseau would develop in later works and by others who came under his spell
 - b. His portrait of early man and simple societies inspired the **romantic revolt** against classicism in art and literature
 - c. His views on property and the dark side of mutual dependence influenced young **Karl Marx**
 - 9. Central Thesis: The Most Serious Forms of **Injustice Originated in Civil Society**
 - a. **The Social Contract: Illegitimacy of existing governments**
 - b. He raised the explosive issue of **legitimacy** at a time when Europe’s old regimes were about to crumble
 - 10. Like Many Other Critical Theorists, Rousseau Was Less Successful at Developing a Positive Political Vision Than in Spotting the Flaws in the Theories of Others
- E. **THE SOCIAL CONTRACT (122-27)**
 - 1. How Rousseau Framed the Problem of Good Government
 - a. Need to find a form of political association which would protect every person’s person and property while allowing each person to remain as free as before
 - b. Solution: An agreement whereby everyone would give himself and all his goods to the community [cf. ideas about primitive communism and the early Church]
 - c. Formation of a state whose legislation would be produced by the will of each person thinking in terms of all (the **general will**)
 - 2. The Concept of the General Will Links *The Social Contract* with *Émile* and Other Writings
 - 3. **The Legislator**
 - 4. **Good Customs** Are Necessary for Good Laws
 - a. Rousseau, like Plato, emphasized the **pedagogical function of law** [inculcation]
 - 5. Rousseau’s Pessimism about What We Call Failed States
 - a. “What people is a fit subject for legislation?”
 - 1) His answer is not encouraging to revolutionaries: People who have never felt the real yoke of law [thus uncorrupted]
 - 6. Once a Legitimate State Is Established, It Needs to Be Maintained and Defended
 - a. No particular associations [such as Tocqueville’s voluntary associations or a civil society based on the doctrine of subsidiarity] may compete for the loyalty of citizens
 - b. Religions should be subject to political control
 - c. Those who refuse to the general will would be “forced to be free”
 - 7. Rousseau’s Recommendations for Corsica and Poland
 - a. **Constitutional Project for Corsica**
 - b. The **oath**
 - c. Paul Johnson: Rousseau anticipated Pol Pot’s regime in Cambodia
 - 8. Discrepancy between the Legacy of the Most Influential 18C Thinker and the Era’s Greatest Political Achievement
 - a. Pragmatic authors of *The Federalist*
 - b. James Madison on human depravity
 - 9. Rousseau and Tocqueville Served the World’s Democratic Experiments Well as Sources of Constructive Criticism
 - a. Classical critique of liberalism
 - b. But liberal democracy has been menaced by Rousseau’s most illegitimate offspring: Those political leaders who bridle at authority themselves, yet advocate authoritarian measures to force others to be free
 - 10. In the World of Politics and Culture, What Rousseau Actually Said or Meant Matters Less

- Than the Emotional Responses He Stirred
- a. Vulgarization of his thought has sheared off his deep historical pessimism in favor of Leftism and the 19C **cult of progress** {Prometheus theme}
11. Rousseau's "Defense" of Religion Shows Firmly He Stood in the Modern Horizon of His Antagonists and How Far He Extended That Horizon
 - a. Voltaire and others mounted an offensive against Christianity in the name of science
 12. His Rejection of Both Reason and Revelation
 - a. The essential worship is that of the heart
 - 1) The religion of Madame de Warens
 - b. Religion would be useful in shoring up a **patriotic civil religion**
 - 1) He agreed with Hobbes that religious activity could be tolerated as long as it was primarily inward and private
 - 2) He was not interested like Luther in reforming religion, only of pushing the institutional critique of religion to its limit
 13. Morality Is Rooted in the Natural Feeling of **Compassion**, Not Reason or Revelation
 - a. But compassion is only a fleeting feeling, not a virtue like charity
- F. CRITICAL REFLECTIONS (127-30)
1. Rousseau's Influence on Marie Antoinette, Robespierre, Napoleon, and Tocqueville
 2. **Julie** Marked the Rise of the **Romantic Literary Genre**
 3. *Confessions* Did the Same for the Modern Literature of Self-Revelation
 4. The New Sciences of Anthropology, Psychology, and the Modern Understanding of History Are All Indebted to Him
 5. He Also Had a Large, Unacknowledged Debt to Montesquieu
 6. Madame de Stael: "He had nothing new, but he set everything on fire"
 - a. Rousseau tapped into *ressentiment* [a spawn of mimetic desire and envy] as no writer had done before
 - b. Judith Shklar: "Homer of the losers"
 7. His Influence Was Different from, Even Opposite to, What He Had Hoped
 - a. *First Discourse*: The vulgarization of science (not science itself) has a corrupting effect by destabilizing customary morality and fostering skepticism
 8. Rousseau's Writings Seem to Have Affected the Emotions of Their Readers More Than Their Intellectuals
 - a. Jacques Maritain: Prophets of below act on men by an **awakening of emotional sympathies**
 9. He Learned Enough from the Ancient Greeks to Mount a Powerful Critique of Narrow Scientific Rationalism
 - a. But not enough to appreciate the more capacious form of reason that infused classical, biblical, and legal traditions alike with dynamism
 - b. "Ironically, philosophical works he intended for the few fostered popular skepticism and relativism
 - 1) while his writings addressed to the many promoted a revolt against reason even among philosophers"
 10. Rousseau's Accomplishments

Review

<i>First Discourse</i>	challenge to scientific rationalism
Madame de Warens and Thérèse Le Vasseur influence on the French Revolution	<i>Social Contract</i>
Second Discourse (On Inequality)	Allan Bloom on Rousseau
Rousseau's view of the earliest human social contract theories	state of nature
Immanuel Kant	loss of real felicity
property	perfectibility (man's capacity for self-transformation)
	fatal accident: agriculture and metallurgy
	no escape from history

rejection of natural law	romantic revolt
Karl Marx	origin of injustice in civil society
<i>Social Contract</i>	illegitimacy of existing governments
the general will	<i>Émile</i>
the Legislator	pedagogical functions of law
<i>Constitutional Project for Corsica</i>	oath
discrepancy between the most influential 18C thinker and his greatest political achievement	patriotic civil religion
cult of Progress	<i>ressentiment</i> (resentment, wounded vanity)
<i>Julie</i> and the romantic literary genre	
awakening of emotional sympathies	

CHAPTER 8: EDMUND BURKE: MAN ON A TIGHTROPE

Review

Penal Laws	hedge school	Burke's literary and political circles
tactical adjustments	economy of truth	Marquess of Rockingham
independent judgment (Burke's trustee theory of representation)	Warren Hastings	Catholic Relief Act of 1778
East India Company	<i>Reflections on the Revolution in France</i>	Charles James Fox
Rockingham Whigs		
English common law		

CHAPTER 9: TOCQUEVILLE THE POLITICIAN

Review

Pierre Royer-Collard	Malesherbes family	Gustave de Beaumont
Louis-Philippe	Tocqueville's three authors	Revolution of 1848
universal male suffrage	(Louis) Napoleon III	Minister of Foreign Affairs
reasons for Tocqueville's political ineffectiveness		

CHAPTER 10: MAX WEBER: SCHOLARSHIP AND POLITICS IN THE DISENCHANTED WORLD

Review

science and specialization	disenchantment of the world	Protestant habits and attitudes
Karl Marx's mistake	Raymond Aron	critique of Otto von Bismarck
Kaiser Wilhelm II	politics as a vocation	making a living <i>from</i> politics
system of civil-service rule		

CHAPTER 11: OLIVER WENDELL HOLMES: THE TRADITION-HAUNTED ICONOCLAST

Review

Tocqueville on universal suffrage	Germany's ineffective legislature	
Holmes: the life of the law	Holmes's continuing influence	Due Process cases
<i>Lochner v. New York</i>	Holmes's conception of law	law as a "magic mirror"
tradition-haunted artists	one rule of war	political consequences of relativism

CHAPTER 12: THE FIRST LADY AND THE PHILOSOPHER: ELEANOR ROOSEVELT, CHARLES MALIK, AND THE HUMAN RIGHTS PROJECT

Review

Eleanor Roosevelt	Charles Malik	Alfred North Whitehead
Commission on Human Rights	Julian Huxley	UNESCO
Richard McKeon	Jacques Maritain	tangential uses of a declaration
political minefields	Palestinian crisis	René Cassin
psychology of individualism	Malik's four principles	personhood
social and economic rights	civil and political rights	Peng-chun Chang
second generation rights	ECOSOC	need for decent people in politics
John Humphrey	Universal Declaration of Human Rights	