

University of California, San Diego. And many professors report that student interest in the Constitution is running higher than at any time since Watergate—when the most debated legal issue in America was what the framers meant by an impeachable offense. The revival probably has less to do with the bicentennial, however, than with the renewed controversy over the power of the Supreme Court. Attorney General Edwin Meese III's call for a "jurisprudence of original intention" has given theoretical focus to public anger about court rulings in such emotion-charged areas as abortion. "The fact that President Reagan has made it clear he wants to change the interpretation on some issues makes [the Constitution] very germane now," says constitutional scholar Peter Fish of Duke.

Three main lines of constitutional study emerge: the lawyerlike, the historical and the philosophical. They are not incompatible, but are rarely found in tandem because each embodies the methods and values of a different discipline: respectively, political science, history and political theory.

Case method: The political-science tack is the most common. Its basic materials are not so much the Constitution itself as Supreme Court applications of the Constitution. Students read cases, reflecting a lawyerly interest in results over principle. The method's unsentimental maxim is that of former Chief Justice Charles Evans Hughes: "The Constitution is what the judges say it is." Says Duke's Professor Fish: "The reason political scientists focus on the Supreme Court is because the core of political science is the search for power."

At Yale, Prof. Rogers Smith teaches a popular political-science course on constitutional law that tries to uncover judicial motivation. While screening cases against their historical and intellectual context, Smith tries to show that—in constitutional cases, at least—judges must be more than mere products of their environments or their ideological predispositions. "Every judge now feels and always has felt that he looks at precedent and text and feels obliged to make sense of them," he says. Still, Smith's students are often disillusioned to learn the full extent of judicial discretion. "A lot of us went in [to the course] thinking of the Constitution as an explicit text with explicit law," says Yale senior Rosa Sabater. "That the Constitution could be so variously applied was disturbing. It made me wonder whether this document has any meaning at all."

Not one meaning but several, say historians. It depends on

the era. "A lot more people than the courts have something to do with the Constitution," says historian Herman Belz of the University of Maryland, College Park. His own seminar courses focus on "a history of public opinion on how to use the Constitution." Belz divides his constitutional history into two semesters, with 1860 the midpoint. Other teachers find three distinct eras: in the nation's early years the great constitutional questions concerned national supremacy over the states; the Civil War settled most of those. Then came the struggle over the federal government's right to regulate the economy; the New Deal essentially ended that. In recent times, public opinion and hence the courts have been concerned with weighing individual rights against the rights of government.

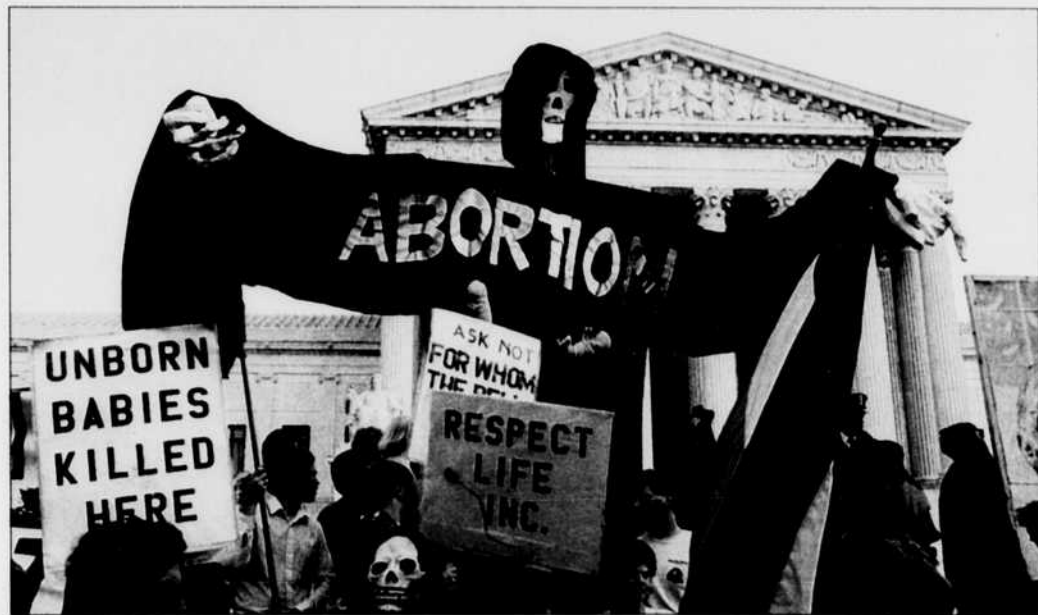
Pocketbook patriots: The historical approach also treats the Constitution as a product of the fears of its own time. Perhaps the most striking example is Charles A. Beard's muckraking 1913 work, "An Economic Interpretation of the Constitution." It argued that the framers were pocketbook patriots, who conceived of a strong national government as the best defense of their own property interests. Beard's book was very much a teacher's work—a calculated demythologization. It was widely disputed and over the years fell into disuse on campus. However, now it is being revived, for example, in a new bicentennial course at the University of Virginia.

The third approach to Constitution analysis is philosophical; it treats the founders as conscious theorists. The framing of the Constitution was, after all, almost as much an intellectual event as a political one. The founders were learned men, steeped in both

ancient and Enlightenment theories of government and society, and the debates at the Federal Convention of 1787 showed that: behind the delegates' words lay the words of philosophers like Machiavelli and Montesquieu, Hobbes and Locke. Montesquieu, for example, believed that because they required broad political participation, republics were only possible in small countries with limited populations. Without knowing how influential this theory was, it is difficult to appreciate just how innovative James Madison was being when he argued that America needed a republican government precisely *because* it was so large. The philosophic approach is comparatively rare but is essential to any understanding of what the framers thought they were doing. Says Prof. Sotirios Barber, who teaches constitutional interpretation at Notre Dame University, "We try to study the Constitution as if it were a general response to human problems."

The Constitution is all of that and one thing more: a specific response to the potential problems of a self-governing people. The framers were well aware of human frailty and yet were willing to gamble on it. They knew, too, that Americans were likely to prove a diverse and difficult people. That is why the Constitution repays careful study. For while close reading of the Constitution invariably produces an awareness of the American system's flaws—the maddening inefficiency of the separation of powers, for example—it also leads to an understanding that the Constitution is what it is because we are what we are.

PETER McGRATH with MICHAEL MILSTEIN in Durham, N.C. TRACY SIVITZ in New Haven, Conn. CINDY SPITZER in College Park, Md. WAYNE RUTMAN in Charlottesville, Va., and bureau reports



A new focus on interpretation due to public anger: Anti-abortion rally at the Supreme Court