

## CHAPTER ONE

### *What is Politics?*

#### CHAPTER OVERVIEW

This initial chapter introduces and defines politics and applies it to America's government. In Lasswell's famous definition, politics is "the process of who gets what, when, and how." In other words, the text's definition of politics "centers on actions among a number of people involving influence" (note the opening example of the student-professor classroom interaction).

The concepts of power (the ability to influence another's behavior), elites (those who get more than others of the values society has available), legitimacy (the acceptance of something as right), and authority (a legitimate, efficient form of power) are discussed. The means by which democratic politics chooses conciliation rather than violence to maintain order and adapt to change, as well as the fact that widespread participation through freely-elected representatives is the cornerstone of every democracy, is also explored.

The responsibilities of government are investigated; in particular, the need for government as a means of controlling conflict (disputes over distributions of a society's valued things), making rules determining who gets the valued things of society, and regulating the use of "legitimate force." A condition of anarchy, or a society without government, is shown to be unrealistic.

Political science, a discipline that studies the power-authority interaction among people, is then distinguished from the other social sciences, such as economics or history, by looking at Microsoft as an arena for these different approaches. Political scientists would look at how Bill Gates and his executives make decisions, the impact of the government's antitrust

suit against Microsoft, how the computer giant maintains its business preeminence, and how/why its leaders maintain power and authority. In short, to quote Lasswell once again, politics "is the study of influence and the influential."

The author illustrates the life and death consequences of the political "game" with the example of the FAA's failure to regulate a door problem on the DC-10. Political considerations resulted in needed safety modifications for cargo doors being delayed by McDonnell Douglas, the DC-10's manufacturer. The result was a cargo door blowing off on a Turkish-owned DC-10 in 1974, resulting in the deaths of 346 people on board. The author concludes this section by explaining the organization of subsequent chapters and the reasons why we should all 'give a damn' about the "complex, ever changing, never ending, and serious" game of politics. In short, he says, "from the moment we wake up in the morning, we are affected by someone's political choices."

## **LEARNING OBJECTIVES**

After reading chapter 1, the student should be able to:

1. Define "politics" and explain why it is so important in American society. Be sure to analyze the Lasswell definitions. Also, analyze the political significance of the "Guess Who's Coming to Dinner?" boxed insert, especially from the perspective of "equality."
2. Explain the significance of power, authority, and political elites. Also, explain why U.S. power was "limited" regarding Saddam Hussein's removal from power in 1991.
3. Summarize the reasons why government is necessary, as well as its two key functions. Also, how and why does government in the U.S. both protect the private distribution of most of society's values and simultaneously set limits on that private distribution? Explain how government "alone" regulates the use of legitimate force.

4. Understand how democratic politics differs from rival approaches and what is meant by representative democracy. Also, explain how politics in a democracy behaves like a marketplace.
5. Distinguish what political scientists study from what other disciplines--history, economics, or psychology--study. In addition, summarize how political scientists would study Microsoft.
6. Appreciate the serious and complex nature of the "political game" and understand how and why politics affects the individual's life in so many ways.
7. Review how politics was a "life and death" affair in the case of the FAA, McDonnell Douglas, and the DC-10 cargo door catastrophe.

## **OUTLINE**

- I. What is Politics? -- The First Day of Class
  - A. Classroom example. A very familiar illustration of how people get and use influence. Representative of Lasswell's classic definition of politics as "the process of who gets what, when, and how."
- II. Politics and Power
  - A. Power Defined. Power is the ability to influence another's behavior. A distinction is made between the capacity for power (e.g., a large military) and the ability to apply it (e.g., the American problem with Saddam Hussein in Iraq). Power is generally a means to other ends; a method to acquire values, such as wealth.

- B. Elites--Groups that wield power. 'The elite' is defined as that group which has most of the resources (both material and nonmaterial) that society values. The unequal distribution of wealth in America is used as an example and is supported with statistics. For example, the top 1 percent of the population owns 33 percent of the wealth. Elites may differ according to the value considered (wealth, respect, etc.), but generally possession of one value leads to control of other values.
- C. Authority: Legitimate Power. Authority is defined as legitimate power--it includes not only legal obligations, but also psychological and moral ones. Most people feel they should obey an authority; therefore, the need for force is minimized, making authority an efficient form of power. See "Guess Who's Coming to Dinner?"

### III. The Need for Government

- A. Why Government? Government is necessary to settle inevitable conflicts over the distribution of valued things. Government itself often becomes a potential threat, and its enormous power must be controlled. The American system of constitutional, representative, democratic government recognizes this need to limit government. Democracy chooses conciliation rather than violence, i.e., no group is viewed as having a monopoly on the truth.
- B. What is Government? Government does three things:
  1. It makes the rules determining who gets the things valued by society. This may mean the theoretical noninterference of the Constitution in the private economy; or the actual use of government power to limit the private distribution of wealth, by such devices as income taxes and welfare; or direct government intervention in disputes among citizens.
  2. Representative democracy allows people to effectively participate in governing through elected representatives.

An essential part of democracy is tolerating differing opinions and interests and seeking compromises among competing demands.

3. Government alone regulates the use of legitimate force, by employing, allowing, or preventing it. Government does not monopolize the use of legitimate force, but it alone sets limits to its use.

#### IV. The Study of Politics

- A. Political Science as a Discipline. Politics is grouped with the other social sciences as the study of interactions among people, but it is distinguished by its primary interest in the concepts of power and authority. A case study of the "society" of Microsoft is used to illustrate these differences.
- B. Political Science and Microsoft. An economist, psychologist, and historian would all ask different questions about the computer software giant, Microsoft (questions could overlap). The political scientist would focus on the central question-- who is getting what, when, and how?
- C. Why Give a Damn About Politics? Apathy is also a political position because it affects who gets what, and when and how. A tragic air accident with personal consequences, attributed to the negligence of a government agency, illustrates the effects of political decisions. Also, see "Who Needs Government?"

#### V. What is This Book About?

A brief outline of the chapters is given and the analogy of politics to a game is discussed. Politics is a game in form, but not in intent. It is deadly serious, played for high and varied stakes, and is highly complex, involving several overlapping games, in which various groups contend for power to gain their values and protect their interests.

## **KEY CHAPTER TERMS AND IDENTIFICATIONS**

Politics

Harold Lasswell's definitions of politics

"who gets what, when, and how"

power

Saddam Hussein/Iraq in 1991

authority as "legitimate power"

a "capacity for power"

political elites/distribution of wealth

anarchy

political conflict

democracy

representative democracy

Bernard Crick's definition of democratic politics

free elections

Tutsis of Rwanda

Supreme Court and the 2000 election

government

values

"regulation of legitimate force"

social sciences--history, economics, sociology, psychology

political scientists/Microsoft and Bill Gates

"the study of influence and the influential"

Senator Ernest Hollings and "Who Needs Government"?

The FAA, McDonnell Douglas, and the DC-10

the "game" of politics

"arenas" of politics

politics as a "spectator sport"

## **TEACHING SUGGESTIONS**

1. Discuss how a political scientist might outline a study of the operations of a large university. What decisions would he/she examine? What would be some of the objectives of the study? How

would it differ from other disciplines' approaches?

2. Ask the class to speculate on whether "pure democracy" would work in America. Imagine if Americans had a device attached to their TV sets and could key in a "Yes" or "No" response to polls on an issue posed by local or national leaders. Would this be a good idea or not? Discuss.
3. Ask students whether politics has been a "spectator sport" for most of their lives. Assuming it has been, discuss why this has been the case and what factors may change this political attitude in the future.
4. Discuss whether the obvious inequality of income in America is dangerous to democracy. In what ways is this inequality an inevitable part of capitalism? Should this inequality be reduced through active intervention by the federal government--why or why not?

### **SUGGESTED RESEARCH ASSIGNMENTS**

1. Which elites in your community wield the greatest power? Looking at a recent local decision--zoning, education, or regulation--examine who contacted local decision-makers and what influenced the policy outcome.
2. It may be interesting to have students write a short paper explaining how they and/or their families have been affected by government agencies at the local, state, or federal levels. How did they react? Include whether these "government contacts" were positive or negative.
3. As a follow-up research project, have a team of students investigate the final outcome of the government's suit against Microsoft. What did this outcome reveal about the power of government versus the power of a giant corporation?

4. Ask students to interpret Senator Holling's story about the irate taxpayer in the "Who Needs Government?" boxed insert. Then, have those same students interview friends, family members, or relatives about whether taxes paid to government are used appropriately or not. Findings could be presented in the form of a paper or class panel report.



## **CHAPTER TWO**

### ***The Constitution: Rules of the Game***

#### **CHAPTER OVERVIEW**

This chapter discusses the “official rules” of the political game as they exist in the United States Constitution. The Constitution outlines the government’s structure (the three branches of the federal government), restrictions on how the game can be played, legal protections for the losers, and the “arenas” in which play goes on (federalism). The chapter also explains the events surrounding the creation of the Constitution, the principles behind the document, how it evolved over time, and why constitutional rules continue to influence American political life.

#### **LEARNING OBJECTIVES**

After reading chapter 2, the student should be able to:

1. Describe the political events that led up to the ratification of the Articles of Confederation, as well as the strengths/weaknesses of those Articles.
2. Explain why the Constitution was “a product of a series of compromises” and what, specifically, the contents of those compromises were.

3. Summarize the important motives (Beard's thesis) and political ideas of the Framers.
4. Describe the ratification struggle, noting the differences between the Federalists and Anti-Federalists and the issue of adding a Bill of Rights.
5. List and explain the significance of the four major constitutional principles--separation of powers/checks and balances, federalism, limited government, and judicial review.
6. Explain the process of amending the Constitution.
7. Elaborate on the reasons for the Constitution's durability, such as the stability of American society and the document's vagueness.
8. Explain the political relevance of and modern changes in federalism.

## **OUTLINE**

### **I. The Constitution in the Game Analogy**

Introduction--A dialogue illustrating how students may detach the Constitution and the politicians who wrote it from the current perception of our national leaders. The Framers are viewed as "patriots," while, today, elected officials are "crooks." The Constitution contains the official rules of the American political game and establishes three major players: the president, Congress, and the Supreme Court.

### **II. Background to the Constitution**

- A. Introduction--Three sources for the Framers:
1. The English legal heritage, which limited the authority of government, illustrated by the Magna Carta and the writings of John Locke.
  2. American models of colonial and state governments, which contained elements of the ideas of limited government, the consent of the community (Mayflower Compact), the separation of powers, the dominance of the legislature, and regular elections.
  3. The experience with the Articles of Confederation (ratified in March of 1781), the failure of which underlined the need for a stronger central government that could impose taxes and have direct authority over individual citizens.
- B. The Articles of Confederation (1781-1789)
1. Shortcomings of the Articles included a weak “league of friendship” among the states, the requirement of unanimous approval by all thirteen states for amendments, no executive branch, no national system of courts, and no congressional power to impose taxes.
  2. Strengths included the power to declare war, conduct foreign policy, coin money, manage a postal system, and oversee an army composed of state militias. A highly “democratic” feature was compulsory rotation in office. Other accomplishments included the start of a national bureaucracy and the passage of the Northwest Ordinance.
  3. By 1787, the Confederation faced severe financial difficulties (devalued currency, trade wars among the states), foreign threats to American soil from the British, French, and Spanish, and the fear of mob rule and economic disruption (1786: Shays’ Rebellion).

- C. The Constitutional Convention (May 25 to September 17, 1787)
1. The Constitutional Convention met in Philadelphia, in strict secrecy. The delegates changed their original charge from a revision of the Articles to the creation of a new government.
  2. The Constitution was a product of compromises concerning the representation of large and small states in Congress (the Great Compromise, whereby representation in the House was determined by a state's population, while equal representation in the Senate was accorded to all states); regulation of commerce (no tax on exports); and slaves being counted as three-fifths of a person (the slave trade was not banned until 1808).
- D. The Framers (55 delegates to the Constitutional Convention)
1. The Framers were politically experienced, well-educated nationalists, and, generally, members of the conservative propertied elite. They were wealthy planters, merchants, and lawyers. And many of them owned slaves. Small farmers, common workers, and "liberals" in the elite were not represented. Also, leaders who represented the poorer majority, such as Thomas Jefferson and Patrick Henry, did not attend the convention.
  2. Convention debates were not between the "haves" and the "have-nots," but rather among the "haves" from different regions.
- E. Motives Behind the Constitution
1. Charles Beard argued, in 1913, that the delegates were mainly concerned with creating a central government committed to honoring previous debts and protecting their own property holdings, and that the delegates did not favor democracy.

2. Critics of Beard have asserted that the delegates had varied motives, such as promoting economic development and raising a federal army that could protect the states from foreign aggressors.
  3. The Framers' public interest of nation-building coincided with their private interest of protecting their property.
- F. Federalists Versus Anti-Federalists--Ratification and the Bill of Rights
1. The Federalists favored a strong central government to curb the power of the common people and of the states. The Anti-Federalists favored a weaker central government in order to tip the balance of power toward the states. They desired a rigid system of separation of powers and effective checks and balances. The Constitution was the result of compromises between these two positions.
  2. Conventions in nine states had to approve the Constitution. The Federalist Papers, authored by James Madison, Alexander Hamilton, and John Jay, stressed the advantages of national union and undoubtedly helped the ratification process, especially in the state of New York.
  3. The Anti-Federalists insisted (successfully) on the addition of a Bill of Rights to the Constitution, arguing that these rights were sacred and universal for present and future generations of Americans.
  4. Note the boxed insert, "Is the Constitution Anti-Democratic?", in which the late Thurgood Marshall observes that the Constitution excluded women and minorities. To Marshall, it was the Civil War that "created virtually a new Constitution using the Fourteenth Amendment to ensure the rights of all Americans."

### III. Four Major Constitutional Principles

- A. Introduction. The Constitution establishes the structure of government, distributes certain powers, and puts restraints on the government. In short, the Constitution both grants and limits governmental power.
- B. Separation of Powers and Checks and Balances. These principles place the powers of government in the care of separate parts and then mix together some of the powers to ensure the relative independence of the three branches (legislative, executive, judicial). Although never explicitly described in the Constitution, this philosophic principle was put into practice by the colonial governments. But while the branches of government are separate, in practice they share the overall power of government.

Examples of checks and balances include the presidential veto, Senate confirmation of presidential nominations, and the courts ruling a law unconstitutional. Also, note Madison's observation (see boxed insert) that "if men were angels, no government would be necessary."

- C. Federalism. This idea calls for authority to be distributed between a central government and the governments of the states. This leads to an inherent contradiction: Can the central government be supreme and state governments be independent? This contradiction was resolved historically—by arms during the Civil War—in favor of the federal government. As the country grew in size and population, the need to solve problems (e.g., the environment and corporate regulation) moved beyond the capacities of the states. The nationalization of political issues led, in part, to the nationalization of solutions in areas like public education, a responsibility originally reserved to the states.

Modern federalism appears far different from the original concept. Most nonmilitary services provided by government are supplied by local and state governments, in complex overlapping relationships with the federal government. The debate over modern federalism has resulted in liberals and conservatives battling over whether programs administered on a local level are closer to people's lives and more efficiently managed. By 1996, President Clinton and the Republican Congress worked together to shift more responsibility to local governments and reduced the federal role in a number of programs, including welfare. In 2001, President Bush sent legislation to Congress whereby the federal government set standards for student achievement backed by tests, but also let the states decide on how to implement them. So, federalism remains a flexible system for representing the varied interests of a large, diverse nation.

- D. Limited Government. This incorporates both civil liberties and civil rights, and ensures citizens' rights against the government, as well as access to the government. Examples are the rights to vote, to dissent, and to an impartial jury.
- E. Judicial Review. A principle not specifically stated in the Constitution, but developed through judicial precedent, beginning with *Marbury v. Madison*, 1803. Its most vital function has been to protect the union by allowing the Court to review state and local laws. Although few federal laws have been struck down by the Court, hundreds of state and local laws have been held to violate the Constitution.

#### IV. How is the Constitution Changed?

- A. Amendments. This is the least common method because of its difficulty. The usual procedure is proposal by two-thirds vote

of each house and ratification by three-quarters of the state legislatures (normal deadline is seven years for passage). An exception is the Twenty-first Amendment, ratified by state conventions. There are 27 Amendments to the Constitution, with the 27th Amendment (pay raises for Congress cannot be granted until an election has occurred) being finally ratified in 1992.

- B. Judicial Interpretation. This is the most common method. The Supreme Court has reshaped the original document by interpreting vague constitutional phrases and allowing or disallowing practices by various political players. Supreme Court decisions have impacted economic regulation, segregation of the races, obscenity laws, and voting rights. Indeed, the Supreme Court is often called “a permanent constitutional convention.”
- C. Legislation. Congress has filled in the framework of the Constitution by establishing lower courts, the cabinet, executive boards and commissions, regulations, and services (e.g., Social Security).
- D. Custom. One of the vaguest but most significant methods, custom has created the role of political parties, party leadership in government, the congressional committee system, and the breakdown of the Electoral College. Customary usage has even changed some clear intentions of the Framers, such as in the setting of excessive bail. Custom now allows a president to enter armed conflict (e.g., Korea or Vietnam) without a declaration of war.

V. Why Has The Constitution Survived?



- A. The stability of American society is the key reason. Social and political upheavals have all been handled within the same constitutional structure.
- B. The shortness of the document (only 7,000 words) and the ambiguity of constitutional language, which allows for different interpretations over time, have also assured survival.

#### VI. CASE STUDY: Federalism at 55 mph

The 1995 Congressional repeal of the national 55-mph speed limit would seem to be a clear victory for states' rights. But a closer look at the Senate action reversing this unpopular measure reveals a comparable victory for federalism: the Senate also voted to keep federal limits on big trucks, to keep seat belt requirements, and to require tough new state laws against drinking and driving by minors. Thus, the popularity or unpopularity of certain safety measures proved as influential as either political philosophy in the actions taken by Congress.

#### VII. Wrap-Up

The question is whether the flexibility and vagueness of the Constitution makes it meaningless for governing the nation. Does the document merely serve the interests of those in power? All great historical documents have been "differently applied by different people at different times." The Constitution stands as a symbol of a people's ideals. In the final analysis, the rules of the American political game are guidelines and goals that depend upon each political generation for their application.

### **KEY CHAPTER TERMS AND IDENTIFICATIONS**

Constitutional "limits" on the American political game  
May, 1787--Philadelphia and the Constitutional Convention  
Magna Carta (1215)  
John Locke  
Mayflower Compact (1620)  
Declaration of Independence  
Articles of Confederation (1781-1789); a type of "term limits"  
Northwest Ordinance  
Unicameral (one-house) legislature  
Continental Congress  
Shays' Rebellion (1786) and fears of "mob rule"  
"Revising" the Articles  
Washington, Hamilton, Madison, and Franklin  
The "absence" of Jefferson  
Great Compromise  
Three-Fifths Compromise  
Charles Beard's An Economic Interpretation of the Constitution of the United States (1913)  
Public interests vs. private interests of the Framers  
Federalists vs. Anti-Federalists (Patrick Henry, George Mason)  
The Federalist Papers (James Madison, Alexander Hamilton, John Jay)  
Bill of Rights  
Separation of Powers/Checks and Balances  
Hofstadter's "harmonious system of mutual frustration"  
Federalism and the "marblecake" model  
President George W. Bush's "No Child Left Behind" education plan  
Limited government; a "political compact" based on rule of law  
Judicial review  
*Marbury v. Madison*  
Reserved powers to the states--Tenth Amendment  
States' rights and "devolution of power"  
Exclusive powers to the national government  
Constitutional amendments and Article V

Twenty-First Amendment (Prohibition Repeal)--state conventions  
The Constitution's "durability, flexibility, brevity"  
27th Amendment or the "Madison pay raise amendment"

### **TEACHING SUGGESTIONS**

1. Do students have an idealistic view of the Framers of the Constitution? Is their view of modern politicians equally unrealistic, in the other direction?
2. Specifically compare and contrast the U.S. Constitution and the Articles of Confederation. Ask members of the class to explain why the differences were so important.
3. Read excerpts from the writings of the Anti-Federalists so that students can better understand the precise nature of their objections to the proposed Constitution.
4. Ask the class to speculate on how American history might have been changed if the Constitution had not been ratified.
5. Debate the following assertion in class: "The Constitution was designed to be anti-democratic--to keep common people from having too much power." Be sure the class comments on the Thurgood Marshall material.
6. Imagine that the Constitution had been copied in another country. Compare the impact of America's written Constitution on U.S. history with its impact on another country's history.
7. Analyze how President George W. Bush's educational policies were related to patterns of federalism.

## **SUGGESTED RESEARCH ASSIGNMENTS**

1. Ask selected students to investigate why there have been calls for a new Constitutional Convention in recent years. What subjects would the new delegates consider? Also, what dangers might stem from a new convention? Finally, how would the modern media coverage change this event?
2. Is a written Constitution necessary for a democracy to exist? Great Britain does not have one, while some dictatorships have constitutions that promise individual rights against the state, but do nothing to allow them. Ask students to consider, in writing or orally, which specific historical and political factors make constitutional rights relevant to a nation's behavior.

## **CHAPTER THREE**

### ***The Executive Branch: The President and the Bureaucracy***

#### **CHAPTER OVERVIEW**

This chapter stresses the contrasting public perceptions of the presidency, its historic evolution, various “types” of presidents, and the several “hats” a president wears, such as “Chief Diplomat,” “Party Leader,” and “Commander-in-chief.” The chapter outlines the history of the presidency, the constitutional role of the president, and his influence over public opinion. The presidential relationship to the executive bureaucracy is also explored, following the theme of the bureaucracy as both a tool of and a limit on presidential power. Finally, the case study on President George W. Bush's response to September 11 reveals his leadership abilities, along with the way a president rallies the nation in a time of crisis.

#### **LEARNING OBJECTIVES**

After reading chapter 3, the student should be able to:

1. Explain how Constitutional provisions affect the performance and responsibilities of the president.
2. Review those key events that shaped the evolution of the presidency.

3. Categorize presidents according to the “Buchanan,” “Lincoln,” and “Eisenhower” approaches, as well as the James Barber typology.
4. Examine and describe the six overlapping presidential “hats.”
5. Explain the significance of the Executive Office of the President, the Cabinet departments, the Executive Agencies, and the Regulatory Agencies.
6. Describe the relationship between the president and the bureaucracy, the problems of the bureaucracy, and its policy-making powers and limits.
7. Explain how a president’s influence over public opinion can influence Washington’s policy agenda.
8. Explain why President George W. Bush has been labeled the "Imperial Delegator," and also explain his general style/policies.
9. Review the key points made in the chapter study dealing with the terrorist attacks of 9/11 and their aftermath.
10. Explain the origins and purpose of the U.S. Civil Service.

## **OUTLINE**

- I. Introduction.  
The president is the superstar in the political game. He is the only official elected by the entire country. Yet, the public view of him as the nation’s leader has historically led to unrealistic expectations and crushing disappointments. Clinton was one example of this. Yet, by

contrast, George W. Bush's presidential effectiveness has surprised those who underestimated his overall abilities.

- II. The President and the Constitution. The Constitution grants few specific powers and duties to the president, but vague phrases have been interpreted to greatly enlarge them. Presidential qualifications for office, the concept of a “lame duck,” and the functions (note the disputed 2000 election) of the Electoral College (270 electoral votes are required to be elected) are analyzed (after 2000, there was talk of abolishing the EC, but nothing happened). The duties of the vice-president are outlined (presides over the Senate; succeeds the president if death or disability occurs) and the political importance of that office as a step to the presidency is discussed. The “new vice-presidency” is mentioned where vice-presidents like Walter Mondale, George Bush, Al Gore, and Dick Cheney have played roles of deputy president. Cheney probably became the most powerful vice president in the nation's history under George W. Bush--he was often referred to as the "prime minister" in the White House.
  
- III. History of the Presidency. The role and influence of the president have expanded far beyond the constitutional conception of a gentleman-aristocrat who would stand above politics. Most members of the Constitutional Convention in 1787 did not even see a political role for the president. Congress was meant to stand supreme, but the responses of presidents to crises have increased the power of the presidency. Washington used residual powers (powers not spelled out in the Constitution, but necessary to carry out other responsibilities) in putting down the Whiskey Rebellion; Jefferson weakened congressional control of foreign affairs by negotiating the Louisiana Purchase; and Abraham Lincoln expanded the role of the president in wartime. Franklin D. Roosevelt's response to the Depression and World War II firmly established the modern presidency and its strong leadership patterns.

#### IV. Types of Presidents

- A. “Buchanan Presidents” take a custodial view of their responsibilities, remain aloof from politics, and exercise only those powers directly stated in the Constitution. Harding, Coolidge, and Hoover are examples.
- B. “Lincoln Presidents” are active politicians who take a strong leadership role in crises. They view the presidency as a stewardship--that is, the only limits on presidential action are those expressly stated in the Constitution. But they do not interpret the Constitution narrowly. Jackson, Theodore Roosevelt, FDR, Truman, Johnson, and Nixon are examples.
- C. “Eisenhower Presidents” combine the two types by linking the political inactivity of the Buchanan model with an active role as the chief delegate of the people, who organizes and represents a national consensus. Recent presidents have all been active, but have mixed these styles with varying emphases. Some observers saw parallels to Eisenhower in George Bush’s style of leadership. This is sometimes called the "hidden-hand leadership."
- D. Modern Presidents have leaned toward political activism, including Lyndon Johnson and Jimmy Carter. Some have done better in foreign policy than domestic policy (George Bush). President Clinton, in the beginning, initiated an activist administration by proposing a number of new programs, including health care, with mixed success. After the Republican takeover of Congress in 1994, Clinton’s ambitious legislative program stalled, so he compromised with the Republicans on some issues (e.g., welfare), while positioning himself as a



bulwark against congressional extremism. George W. Bush, the first president to lose the popular vote since 1888, adopted a detached attitude, delegating responsibility to experienced administrators.

- E. A Psychological Approach. Political scientist James Barber has combined the president's style (his ability to interact) with his character (essential nature or personal qualities) to come up with four categories of presidents: active-positive, active-negative, passive-positive, and passive-negative. He labels John Kennedy and Jimmy Carter as active-positive. President Eisenhower's tendency to withdraw from conflict places him in the passive-negative category. Unfortunately, these categories neither reflect the totality of a president's career nor consider other political forces influencing the presidency (see "Presidential Mama's Boys").

V. Presidential Hats

The president's six overlapping hats/roles have increased in importance over time.

- A. Chief of State. This symbolic and ceremonial function is combined with the real powers of the chief executive, thus enhancing the authority of the president and the influence of his party. In this role, many people see the president as a symbol of the nation.
- B. Chief Executive. In theory, the president is in complete control of the huge federal bureaucracy, which employs some 1.8 million civilians, spends over \$1.7 trillion a year, and ranks as the largest administrative organization in the world. Criticism of this bureaucracy is widespread, and most modern presidents have made its reduction a goal of their administration.

- C. Chief Diplomat. There are fewer checks on the president's conduct of foreign affairs than of domestic affairs. The president establishes relations with foreign governments, appoints ambassadors, and negotiates and signs treaties that take effect with the consent of two-thirds of the Senate. The Cold War extended the president's diplomatic responsibility into nearly all areas of society. Investigations of covert actions have revealed the dangers of this trend. The Senate's power to ratify or reject treaties has been weakened by the use of executive agreements that require no Senate approval or even public disclosure. Congressional attempts to limit the use of executive agreements have failed, but Congress can refuse to appropriate funds to carry out the agreements.
- D. Commander-in-chief. The president was made commander-in-chief in order to maintain civilian control of the military, but in practice, his authority is represented by the secretary of defense and delegated to the leaders of the military. This role is an important adjunct to that of chief diplomat, because of the president's power to use troops at home and abroad, and because of the size and importance of the defense establishment. Although the Constitution gives Congress the power to declare war, presidents have initiated large-scale military involvement of the U.S. in both Korea and Vietnam. Reaction to this kind of involvement culminated in the 1973 bill (The War Powers Act), limiting the president's ability to commit troops abroad. The law's effectiveness remains uncertain. President Bush ignored the Act in the invasion of Panama and considered it unconstitutional in the 1991 Iraq War. President Clinton also avoided congressional approval when he put military units in harm's way in Bosnia and Kosovo.

- E. Chief Legislator. It was not until the 20th century that presidents regularly and actively used their constitutional right to initiate legislation in Congress. Presidents often try to control the national agenda by identifying important political issues during the annual State of the Union address or during other statements. The president may get support for a bill by using either informal tactics--such as exclusion from social functions and threats to block a member's special legislation--or his constitutional right to veto legislation. The threat of a veto is often used to force a compromise. The president has been traditionally limited to vetoing the whole bill, but, in 1996, Congress gave the president a limited item veto, the power to veto just parts of the bill he dislikes. But one year later, the Supreme Court ruled that the item veto was unconstitutional.
- F. Party Leader. The president's duties as the head of his political party are to choose a vice-president, to distribute offices, to try to fulfill the party platform, and to serve as chief fund-raiser and campaigner. His control is limited, however, by the decentralized nature of American politics. Ultimately, the degree of presidential involvement in party politics is up to him. George W. Bush's informal power over GOP congressional candidates was reflected in the 2002 elections.

## VI. The President and the Public

- A. The President as a National Symbol. The president's visibility, public exposure, and symbolic importance give him great influence in the political game, but this influence can become a liability if the exposure is unfavorable. The media plays a pivotal and often negative role. This is seen in the ups and downs experienced by our two most recent presidents, Bush and Clinton.

## VII. The Federal Bureaucracy

- A. The Executive Office of the President. This department was established in 1939 to help the president manage the bureaucracy and has since grown into a major bureaucracy itself, employing over 1,400 people in eight agencies. The White House staff, whose members are responsible solely to the president, has recently grown in authority at the expense of the cabinet. (Andrew Card was the White House chief of staff for George W. Bush. Note that Bush tends to run his staff like the CEO of a large corporation.) The National Security Council, established to help coordinate the departments of Defense and State, varies in importance with its use by individual presidents. Under Condoleeza Rice, Bush's NSC advisor, the NSC "became smaller and less public." Other councils include the National Economic Council, the Office of Management and Budget, and the Council of Economic Advisors.
- B. The Cabinet Departments. Their expansion from three to fifteen has been largely due to the growth of problems that people want the federal government to address. A good example of this expansion was the creation of the Department of Homeland Security, the newest cabinet department, created to deal with the terrorist threat after 9/11. The DHS has 22 agencies and 170,000 employees. The cabinet has no real power, as a body independent of the president. Although many presidents enter office promising to give the cabinet more power, it hardly ever turns out that way. The degree of control that Cabinet officers exercise over their individual departments varies.
- C. The Executive Agencies. The Office of Personnel Management and the National Aeronautics and Space Administration are like

the cabinet departments, but are not important enough to be included in the cabinet. Some agencies are government corporations, such as the Tennessee Valley Authority and the Post Office, which are semi-independent units performing business functions.

- D. The Regulatory Commissions. Supposedly bipartisan, these relatively independent agencies of the government were established in order to regulate certain parts of the economy (e.g., interstate trade) and to keep them responsive to public interests. Although the president appoints the members of the commissions and chooses who chairs them, the commissions are relatively independent of all branches of government. However, they are often accused of being more responsive to the groups they regulate than to the public. Note the text example of the Securities and Exchange Commission and its relationship to Enron, in 2002.

#### VIII. The Problems of Bureaucracy

- A. Introduction. The size and complexity of large bureaucracies makes it difficult to define responsibility, thus inhibiting public scrutiny and control. The necessity for expertise cuts down bureaucrats' appreciation of a broader view of the public interest. Various remedies have been proposed, such as consumer pressure groups, to act as watchdogs and localize control.
- B. Rise of the Civil Service. The establishment of the civil service, a major 19th century reform that emerged after a disappointed office seeker assassinated President James Garfield, has improved the quality of government employees and added stability to government. The "spoils system," which permitted

elected officials to fill government positions, has been restrained by the professionalization of the bureaucracy. Today, the president only fills about 5,000 patronage jobs.

C. Bureaucrats as Policy Makers. The “ideal model” of separating policy and administration is incomplete and naive. A bureaucrat is rarely politically neutral; he/she does not merely implement policies initiated by others. Bureaucracies are involved in policy-making because they exercise legislative, judicial, and executive power. Thus, for example, the IRS--Internal Revenue Service--holds hearings on tax cases and makes judicial findings.

D. The President and the Bureaucracy. The bureaucracy is a major source of information and power for the president, but its unwieldy structure requires controls and may often work against him. Keeping control over two million employees is a full-time job in itself. Members of the bureaucracy may work to protect their own interests or their departments when threatened by budget cuts. They may ignore the president’s demands and delay or sabotage his agenda. To gain the support of his bureaucracy, the president must bargain and persuade.

IX. Case Study: September 11th--A President's “Trial by Fire”  
The case study deals with the way President George W. Bush responded to the horrific 9/11 terrorist attacks upon America. The President rallied the nation and promised to find those who were responsible for those attacks. He prepared the nation for a new kind of war, comforted the American people, and was a visible “democratic priest-king.” In his 9/20 speech before Congress, GWB dramatically delineated the lengthy and difficult challenges confronting the country.

## KEY CHAPTER TERMS AND IDENTIFICATIONS

Democratic priest-king  
Article II of the Constitution  
George W. Bush--"The Imperial Delegator":  
Twenty-Second Amendment  
"Lame-duck"  
Tilden-Hayes 1876 election  
Electoral College and its role in 2000  
270 electoral votes  
"New vice-presidency"--Dick Cheney as example  
Whiskey Rebellion  
Residual or inherent powers  
"pattern of crisis leadership"  
Louisiana Purchase (Thomas Jefferson)  
Buchanan, Lincoln, Eisenhower Presidents  
"hidden-hand leadership"; stewardship presidency  
FDR's New Deal  
"Custodial view of presidential powers"  
Clinton-a "New Democrat"  
George Bush (Sr.) and Kuwait  
Barber's active/passive style; positive/negative characters  
Active-Positive (Kennedy)  
Active-Negative (Nixon)  
Passive-Positive (Reagan)  
Passive-Negative (Eisenhower)  
Chief of State; Chief Executive  
Chief Diplomat  
Executive Agreements  
Commander-in-Chief  
Civilian supremacy  
War Powers Act of 1973  
Chief Legislator--The "National Agenda"

State of the Union address  
Item veto--ruled unconstitutional in *Clinton v. City of New York*  
Pocket veto  
Party Leader  
Party platform  
White House "spin" (Monica Lewinsky scandal)  
Theodore Roosevelt--the presidency as a "bully pulpit"  
bureaucrat  
EOP--WHO, NSC, OMB, CEA  
White House Chief of Staff (Andrew Card)  
George W. Bush and delegation of authority  
Karl Rove  
Cabinet departments  
Department of Homeland Security  
National Security Council; Condoleeza Rice  
Secretary of Defense Donald Rumsfeld  
Impeachment  
First Ladies--Hillary Clinton; Lady Bird Johnson  
Executive Agencies--OPM, NASA, CIA  
Tennessee Valley Authority  
Regulatory Commissions--ICC, FCC  
Securities and Exchange Commission and Enron  
FBI/CIA roles after 9/11  
"Spoils System"  
Pendleton Act or Civil Service Reform Act (1883)  
Public administration  
Bureaucratic efficiency  
Department of Homeland Security

## **TEACHING SUGGESTIONS**



1. Ask the members of the class to define presidential “greatness.” List the characteristics of a great president on the blackboard. Then ask the class to consider whether any or all of these characteristics apply to any recent presidents. Include the performance of George W. Bush after 9/11.
2. Run a videotape of a recent presidential press conference and/or major speech. Ask members of the class to judge how effectively the current president uses television to reach the public, as well as the quality of his relationship with the press. How can a hostile media influence the public image of a president and his administration?
3. Review how the actions of regulatory commissions affect the quality of American life and how they impact the individual citizen. You may wish to assign a student or two to investigate the actions of a particular commission during the past year or two.
4. Lecture on why the effectiveness of the 1973 War Powers Act has been questioned.
5. Review the disputed presidential election of 2000. Ask the students whether they believe the Electoral College should be abolished, considering what transpired in that election.

#### **SUGGESTED RESEARCH ASSIGNMENTS**

1. Form a team of students to investigate how one applies for a civil service job with the federal government. The students can report their findings to the class as a whole. They also could provide copies of application forms, as well as fundamental civil service rules and regulations.

2. The popularity of presidents rises and falls over time. Ask students to chart what the public approval rating of the current president was when he entered office and what it is now. Have the students write a short paper accounting for its decline, rise, or stability. See if they can remember what the expectations were when he entered office. What explains these expectations?
3. Ask a student to investigate a recent example of the bureaucracy opposing a presidential directive. The student can report in class why the agency/department worked to stop the presidential action, how they did it, and discuss how the president responded. What were the roles of Congress and the media during the disagreement?
4. Ask a student to investigate how the states and the federal government coped with the issue of electoral reform after the disputed recounts and controversial ballots from the state of Florida in election 2000.
5. Ask a team of students to evaluate the role of vice president Dick Cheney in the administration of George W. Bush. What were Cheney's key policy roles? How did he influence the president's decisions, especially after 9/11?
6. How has Hollywood viewed the presidency? Have film producers/directors helped the American public to understand the presidency from both personal and institutional perspectives? Why or why not?
7. Investigate the relationship between the SEC and Enron.
8. Visit the Department of Homeland Security web site. What can one find regarding the Department's mission and composition?

## **CHAPTER FOUR**

### ***The Legislative Branch: Congress***

#### **CHAPTER OVERVIEW**

This chapter begins with the constitutional expectation that Congress would be the democratic centerpiece of the federal government. Things haven't turned out that way, but Congress' importance and complexity is brought out in discussions of its election rules, size, composition, and structure. The chapter reviews the importance of party control, the decline of House Speaker power, as exemplified by the transition from Gingrich to Hastert, the all-important budget process, and how a bill becomes a law.

In addition, such important and related topics as the congressional committee system, the role of seniority, and the vital non-legislative functions — such as investigations of the executive branch — are stressed. The chapter concludes with a detailed case study of the congressional struggle to pass campaign finance reform.

#### **LEARNING OBJECTIVES**

After reading chapter 4, the student should be able to:

1. Evaluate the difficulties legislators face in trying to reconcile local and national interests.
2. Explain the prominent background characteristics of members of Congress.
3. Define and explain the significance of malapportionment, gerrymandering, term limits, seniority, standing committees, conference committees, subcommittees, select and joint committees, senatorial courtesy, legislative oversight, and the filibuster, among others.
4. Detail the various stages of the legislative process, including committee debate, floor votes, role of party leadership, consideration by both houses, and the veto process.
5. Explain the reasoning behind the organization of both the House and Senate.
6. Review the congressional budget process.
7. Explain changes in congressional procedures created by recent Republican majorities in Congress.
8. Explain the significant points made in the chapter's Case Study on "Campaign Finance Reform."

## **OUTLINE**

- I. Introduction - Congress in the Constitution

To keep the legislature dominant, the authors of the Constitution gave the majority of powers and duties of government — lawmaking — to Congress. Congress can levy taxes, borrow money, raise armies, declare war, set up the federal judiciary, regulate commerce, and coin money. Congress also controls presidential power, by having the power to declare war and raise an army, to approve treaties, to create administrative offices, to override the president’s veto, and to impeach executive and judicial officers. Indeed, throughout the nineteenth century, Congress was the major player in shaping the nation’s policies. But despite these controls, the executive branch has grown in power at the expense of Congress. Even with narrow Republican majorities in both Houses, in 2003, the “two chambers often seemed locked in a conflicted embrace.” Still, the legislature is vital to the political game.

## II. Makeup of the Senate and House

- A. Introduction. The basic facts about the size and composition of the two houses are given. The Congress is bicameral, with 435 members in the House (based on population) and 100 members in the Senate (2 per state). The average representative now serves over 647,000 constituents. In the first House, each member represented approximately 50,000 citizens.
- B. The Role of the Legislator. Legislators represent both *national* and *local* interests, making their role difficult, since these interests are often incompatible. But for most congressmen, constituents’ opinions must be heeded if they wish to win re-election. And among the most vital work of a congressman is casework—solving constituents’ problems with

the government (assisting veterans, helping with overdue social security benefits).

- C. Who are the Legislators? Qualifications for membership are given. They include the 25 and 30 years of age requirements for House and Senate members, respectively. Senators serve six-year terms, while Representatives serve only two years, before running for re-election. Congress is overwhelmingly white, male, Protestant, and dominated by the upper-middle-class professions of law, business, and banking. Women, blacks, and other minorities have been typically underrepresented, a situation that has changed in recent congresses. Senators were originally elected by the state legislatures to ensure less popular control, but, since 1913 (with the passage of the Seventeenth Amendment), they have been elected directly. An important problem facing Congress is careerism among legislators who spend their careers in Congress. The attempt by states to pass term limits has been ruled unconstitutional by the Supreme Court, in 1995 (*U.S. Term Limits v. Thornton*).

- D. Malapportionment and Reapportionment. Malapportionment is a political tactic that allows state officials to strengthen the position of their party by drawing districts in which their opponents will be underrepresented. Gerrymandering is another device used to enhance a party's position in a district, either by packing (designing a "safe" district of solid supporters) or by cracking (splitting up the supporters of opponents). Racial gerrymandering became more common after the 1990 census. Malapportionment abuses have been largely corrected by the 1962 Supreme Court ruling that required districts to be equal in population. Recent Court decisions have also limited the role of race in drawing districts.

But politics remains vital in the drawing of districts, as seen in the conflicts over population shifts to the West and South from the Midwest and Northeast, following the 2000 census. After 1990, New York lost three house seats, and California gained seven seats. After the 2000 census, states in the northeast again lost seats, while the so-called Sunbelt gained seats in Congress. Florida, Georgia, Arizona, and Texas gained two congressional seats, while New York and Pennsylvania lost two apiece. Several Midwestern and northern states lost one each, while a number of southern and southwestern states gained one. After 2000, redistricting helped Republicans to gain seven seats in the House. In addition, reconfiguring helped incumbents.

- E. Organization of the House. The majority party chooses officers, controls debate, selects committee chairmen, and holds a majority on every committee. The Speaker of the House has considerable power, and Dennis Hastert is now the speaker of the majority party Republicans. He is assisted by the majority leader and majority whip in coordinating the party's position. The minority party has the same officers, minus the Speaker. Each party has a caucus, composed of all the members of that party in the House, which provides a fairly unified following for party leaders. The Republicans choose a Steering Committee that functions as an executive committee for the caucus. After the 1994 election, the Democrats divided their Steering Committee into a Steering Panel, which nominates committee members, and a Policy Committee, which studies issues and writes bills. Nancy Pelosi is the Democrats' minority leader.
  
- F. Organization of the Senate. As president of the Senate, the vice president votes in case of a tie and has some procedural power. The real leader of the Senate is the Senate Majority Leader,

who schedules debates, assigns bills to committees, and coordinates party policy. Party positions and strategies are coordinated by the majority and minority leaders and their whips. The Senate, a smaller body, operates more informally than the House and is not as tightly controlled by its leadership.

The House and Senate, in 2003, were controlled by the Republicans, given the GOP's gains in the 2002 midterm elections. Trent Lott was the Majority leader, and Tom Daschle of South Dakota became the Minority leader (Lott was later deposed and replaced by Bill Frist). The Republicans have a Committee on Committees, responsible for the assignment of Members to committees, as well as a Policy Committee that charts legislative strategy. Senate Democrats are organized similarly.

### III. How Congress Works (the Committee System)

Legislation can be introduced in either house, except for money-raising and appropriations bills, which must originate in the House. The two Houses act separately in drawing up a bill, but the language of the bills they pass must be identical before final passage. Due to the number and complexity of issues before Congress, bills are immediately assigned to a committee and must be approved there before being presented to the whole body. About 20,000 bills are introduced in Congress each year, but 80-90 percent of all bills die in committee, and only 5 percent of all bills become law.

A. How Committees Work. Much of the work of Congress takes place in committees. Floor debate is little more than a formality designed to make a public record. There are four types of committees:



1. Standing committees are the basic working units of Congress to which all prospective legislation must be assigned. There are nineteen in the House and seventeen in the Senate; these are further divided into subcommittees, which have been dramatically reduced by the Republicans. In general, the recent Congress has reduced the power of committees by increasing the influence of the party leadership. However, before any bill is sent to the floor for consideration, it must still be approved by the committee covering that subject.
2. Conference committees are temporary bodies composed of senators and representatives, created to work out differences between House and Senate versions of one bill. These temporary committees bargain until a compromise is reached and legislation is sent to both houses with identical language. Once a compromise is reached, the committee disbands. Typically, senior members of the relevant committees serve on conference committees.
3. Select committees are set up to do specific, temporary jobs, such as investigations. The Senate Special Committee on Whitewater, formed to investigate any improper activities by President Clinton in an Arkansas real estate project, is an example.
4. Joint committees are permanent bodies with members from both houses, whose purpose is to coordinate policy and prevent duplication on routine matters. An example is the Joint Economic Committee.
  - a. Committee Chairmen and the Seniority System. By an unwritten rule, the majority party members who have served longest on particular committees become chairmen. They have formal power over the membership and procedure of their committees and informal influence

through their years of experience. They hire staff and can usually kill legislation. Recently, the power of chairmen has been limited, by caucuses led by party leaders. By the Republican takeover in 1994, party leadership had been strengthened at the expense of the committees. Seniority is an important, but unwritten, rule of Congress that has recently been successfully challenged, although it is still generally followed. Advantages of the system are that experienced leadership is assured and rivalries are minimized. Critics, however, feel it is undemocratic and unresponsive to change. They call it the “senility system.”

b. Specialization and Reciprocity. Members of Congress are expected to specialize in the work of their committees, which tends to make them expert in a few areas and unfamiliar with others. Because of this, they rely on each other’s expertise and follow the lead of other committees on subjects outside their own field. This process has been diluted as party control of the legislative agenda reduced the impact of committee leadership.

B. Floor Debate in the House and Senate. Once recommended by a committee, a bill is placed on a calendar for floor debate. In the House, the Speaker controls debate, and each member is limited to five minutes. A simple majority vote of those present is needed for passage. The whole procedure is then repeated in the other house. Voting may follow conservative-liberal lines or regional patterns, but the most common division follows party lines. However, there still are a few mavericks, members who tend to act independently, showing less loyalty to their party in the Congress. They tend to be popular at home, but not in Congress.

Party loyalty has increased in both parties, while the parties themselves have become more polarized. Hence, recent congresses “have become more partisan, often with a harsh tone to the place (see “Congress: Personal, Mean, and Nasty” insert).”

- C. Filibuster. A tactic allowed only in the Senate (the House is too large to afford unlimited debate). A Senator can delay or block action by continuously talking. A filibuster can be stopped only by a vote of cloture, in which three-fifths of the Senate votes to stop the debate. Filibusters are most effective late in the session when legislation has piled up. It is frequently used by the minority party to block the majority party’s wishes.
- D. Presidential Veto. The president can stop legislation passed by Congress with a veto. However, Congress can override this veto by a two-thirds vote in each house. The president must act upon a bill within 10 days. If he does not sign the bill, it becomes a law. But if Congress adjourns before the 10 days are up, and the president does not sign the bill, it does not become law. This is called a pocket veto. Note also the fact that Congress retains the advantage of riders, amendments to a bill that a president frequently does not like. Finally, the legislative process must often be carried out twice, since authorization must be followed by appropriations of money.
- E. The Budget Process. The “power of the purse” is Congress’ basic constitutional power. The 1974 Budget Act enabled a congressional alternative to the president’s budget and required rigid deadlines (a completed budget is due by the start of the fiscal year, October 1) for Congress to complete its public spending plan. The Act created House and Senate Budget Committees that guide the Congress in setting total spending,

tax, and debt levels. Aiding these committees is the CBO, or Congressional Budget Office. The CBO analyzes the president's budget proposals and matches Congress' spending decisions with the budget targets. Overall spending and tax levels must be set by April 15.

Disagreements over the budget between Clinton and the Republicans led to a government shutdown in late 1995 and early 1996. But by 1998, the budget showed a surplus (due to economic prosperity), with both the president and Congress taking credit. The budget surpluses increased from \$69 billion for 1998 to \$230 billion for 2000. Debates ensued over what to do with the surplus, with Democrats in the 2000 election calling for the bolstering of social security and an expansion of government programs for education and Medicare. President Bush proposed and was successful in pushing a sizable tax cut of \$1.3 trillion. Democrats charged that the surplus would be endangered through this plan. Unfortunately, the Bush tax cut plus the war against terrorism resulted in a growing deficit. The war in Iraq, in 2003, added to that deficit.

#### F. Major Committees in the House

1. Budget. This important committee was established in 1974 by the Budget Act. It allows Congress to propose a comprehensive government budget as a coherent alternative to the president's budget. Designed to shift power back to Congress, it has not accomplished all that its creators hoped.
2. Rules. All legislation, except money bills, must pass through this committee. Through its power to set the terms of debate, it can delay, amend, or even kill legislation. The

committee also acts as a “traffic cop” for the House Speaker.

3. Ways and Means. Deals with tax and money-raising bills that go to the floor under a closed rule—that is, no amendments can be attached. It has been the key committee on issues such as welfare reform, tax reform, and Social Security reform. This committee was crucial in Bush’s 2001 tax cut.
4. Appropriations. This committee (along with Ways and Means) is particularly powerful because of its ability to determine how and where the government will spend its money. It has become a key place for passing pork-barrel bills.
5. Judiciary. This committee looks at a broad range of legal matters. It gained unusual public attention during the impeachment hearings of President Clinton.

#### G. Major Committees in the Senate

1. Appropriations. Receives money bills passed by the House and acts as a “court of appeals” to add money.
2. Finance. Handles tax legislation in the same way as Ways and Means in the House.
3. Foreign Relations. Acts as a watchdog on the president’s dominant position in foreign affairs. Its importance comes from the Senate’s role in confirming appointments of ambassadors and approving treaties.
4. Rules. The Senate’s Rules Committee is far less important than its House counterpart.

#### IV. Other Powers of Congress

Important non-legislative functions of Congress include oversight of the executive branch, through the right to create and determine the scope of administrative offices, the power to appropriate funds for these agencies, and the authority to investigate any area, activity, or organization that it wishes. Note the role of the GAO, or General Accounting Office. Investigations can act as a check on executive behavior, but the publicity they attract can be dangerous when allowed to get out of hand. Presidential appointments must be approved by a two-thirds majority of the Senate, and confirmation is usually, but not necessarily, assured. A recent example was the House and Senate investigation of President Clinton's grant of pardons to financier Marc Rich. There is also the Senate power to approve presidential appointments. Examples include President Bush's controversial appointment of John Ashcroft for Attorney General and Clarence Thomas's nomination to the Supreme Court. Impeachment is a slow process and is rarely used, although it was used to impeach President Clinton over the Lewinsky scandal, in 1998. Even though the President was not removed from office, it remains an ultimate power over the executive.

## V. Wrap-Up

Congressional procedures are complex and confusing. Still, Congress has the ability to respond to the people's demands and needs. If Congress does seem slow and cumbersome, it is because it may be reflecting the diversity of views and strong opinions that exist on policies throughout our vast and heterogeneous nation. Congress was not set up to make the government run more efficiently. It was established to reflect the wishes of the people being governed.

## VI. Case Study: Campaign Finance Reform

Campaign finance reform legislation was signed into law by President Bush in 2002 (even though he termed it "flawed"). The law, dubbed McCain-Feingold in the Senate, banned "soft money" to national political parties and barred corporations, unions, and nonprofit groups from broadcasting "issue ads" that mention a federal candidate within 60 days of a general election or 30 days of a primary (critics claimed this was an abridgement of free speech). In addition, the bill allowed soft money to be given to state/local parties and increased "hard money" individual contributions from \$1000 to \$2000. Factors contributing to the reform's eventual passage were the 2000 elections, scandals such as Enron, and "legislative pragmatism," which involved compromises and various modifications. However, it seemed that various groups and individuals were trying to weaken McCain-Feingold by finding various loopholes in the law.

## **KEY CHAPTER TERMS AND IDENTIFICATIONS**

Article I of the Constitution  
Woodrow Wilson  
Bicameral (two houses)  
"national and local" representatives  
casework for constituents  
congressional image/scandals  
the "year of the angry white male" (1994)  
108<sup>th</sup> Congress  
careerism  
two-year (House) and six-year (Senate) terms  
Seventeenth Amendment  
incumbents  
term limits, *U.S. Term Limits v. Thornton*  
malapportionment; *Baker v. Carr*  
gerrymandering — “packing” and “cracking”

"Redistricting following the 2000 census"  
"population shifts to South and West"  
Newt Gingrich  
Speaker of the House (Dennis Hastert)  
Republican Conference; caucus  
House Majority Leader (Tom Delay)  
majority/minority whips  
House Minority Leader (Nancy Pelosi)  
Steering Committee/Panel Policy Committee  
President Pro Tempore  
GOP or "Grand Old Party"  
the "frank"  
Senate Majority Leader (Bill Frist)  
Senate Majority Leader (Tom Daschle)  
Committee on Committees  
Republican House Steering Committee  
Democratic House Steering Panel, Policy Committee  
Republican Senate Committee on Committees, Policy Committee  
Standing Committees  
seniority  
Conference Committee  
Select/Special, Joint Committees  
specialization/reciprocity  
Calendars; Discharge Calendar  
North American Free Trade Agreement  
President George W. Bush's tax cut (2001)  
"Mavericks"  
Senator James Jeffords' defection  
filibuster/cloture; Rule 22  
riders  
pocket veto, item veto; congressional override  
1974 Budget and Impoundment Control Act  
authorization and appropriation



C-SPAN

Congressional Budget Office (CBO)

budget deficits and surpluses

Deficit under George W. Bush

standing committees

House Committees — Budget, Ways & Means, Appropriations, Judiciary,  
Rules ("closed rule")

Senate Committees—Appropriations, Finance, Foreign Relations, Rules

Senator Richard Lugar (R, Indiana)

"pork barrel" bills

legislative oversight/investigations

congressional staffers

General Accounting Office (GAO)

Impeachment (Clinton-Lewinsky)

McCain-Feingold/Shays-Meehan Campaign Finance Reform Legislation

Soft Money

"elections, scandals, pragmatic legislating"

## **TEACHING SUGGESTIONS**

1. If time and circumstances permit, invite a member (or even a former member) of Congress to speak before the class. Interesting insights can be gained from the legislator's talk and class questions that would follow. Another option would be to invite a congressional staffer and follow a similar procedure.
2. Discuss in class whether party discipline, especially in the majority party, benefits or harms congressional effectiveness. Is greater party control more democratic? Get opinions from the class.
3. Given the fact that congressional incumbents are re-elected so often, ask the class whether they would support term limits for members of

Congress. Should both representatives and senators be limited to, say, 12 years in Congress — why or why not? Also, ask members of the class to evaluate the legal reasoning by the Supreme Court when the Court ruled term limits for federal legislators unconstitutional.

4. Why, if Congress is so unpopular, do individual congressmen usually get re-elected? What, if anything, should be done about this?

### **SUGGESTED RESEARCH ASSIGNMENTS**

1. Assign a team of students to investigate their senator's voting record on five major bills during the current congressional term. Have the team compose a letter to the senator asking him or her the reasoning behind any one or all of those votes.

Another approach is to find out which “special interests” support or oppose a bill. Do those interests donate money to a congressman's campaign? Did the donations influence the vote?

2. Assign short research papers on why filibusters have increased in recent Senates, and how or why they are ended by senators. The students can use the Congressional Digest, Quarterly, or Record in their research. They should try to find examples of filibusters that occurred during the previous six years.
3. Examine the changes in congressional leadership styles since the Republican takeover of the Congress. Did power become centralized or decentralized in the leadership? Were committee chairmen more influential? How was the wielding of power in Congress affected by Dennis Hastert replacing Newt Gingrich as Speaker?
4. Examine the relationship between Congress and President George W.

Bush during his first two years in office. How would students characterize the relationship, in terms of policy effectiveness and partisanship?

5. Have students research the implementation of McCain-Feingold. Has the original intent of the law been weakened since its passage, in 2002?

## **CHAPTER FIVE**

### ***The Judicial Branch: The Supreme Court and the Federal Court System***

#### **CHAPTER OVERVIEW**

This chapter focuses on the Supreme Court, with less emphasis on the other federal courts, i.e., U.S. District Courts and Courts of Appeals, their structure, and jurisdiction. The Supreme Court's historical evolution is covered, along with the Court's "internal" and "external" limits. An important theme is the Supreme Court's role as a "political player." The two competing approaches to judicial authority--activism and restraint--are also surveyed. The chapter ends with a case study on racial segregation, including the eventual judicial shift from *Plessy v. Ferguson* to *Brown v. Board of Education*.

#### **LEARNING OBJECTIVES**

After reading chapter 5, the student should be able to:

1. Diagram the federal court structure, noting the respective patterns of appellate and original jurisdiction.
2. Explain the operation of the U.S. Supreme Court and such related terms as "writ of certiorari" and "judicial review."

3. Outline the important stages of the Supreme Court's history, noting key cases and their significance in each historical era.
4. Summarize the important internal and external limits operating upon the Court.
5. Explain how and why the Court is such an important "political player" in the U.S. political system.
6. Distinguish between judicial activism and judicial restraint.
7. Understand the evolution of the Court and the political system's treatment of racial segregation.
8. Explain the significance of the Court's decision in *Bush v. Gore* vis-à-vis the 2000 presidential election.

## **OUTLINE**

### **I. The Federal Court System**

- A. U.S. District Courts. This is the base of the federal court system, the courts of original jurisdiction. Although there are 94 of them, the large volume of cases (almost 260,000) they handle has led to long delays in administering justice. Cases handled by these courts include civil rights issues and counterfeiting.
- B. Courts of Appeals. There are thirteen, which handle appeals from the district courts and from important regulatory commissions. Very few cases go beyond this level to the

Supreme Court. One hundred seventy-nine circuit court judges handle almost 55,000 cases annually.

- C. Special Federal Courts. These courts were created by Congress to handle certain cases. The Claims Court deals with people's claims against government seizure of property, while the Court of Military Appeals, composed of three civilians, is the final judge of court-martial convictions.
  
- D. Federal Judges. Nominated by the president and confirmed by the Senate. To preserve their impartiality, judges hold office for life and can only be removed by impeachment. They cannot have their salaries reduced. Their appointments, however, are usually on a party basis. For example, 93 percent of LBJ's appointments to federal judgeships were Democrats, whereas 93 percent of Richard Nixon's were Republicans. Both Bush and Reagan selected many conservative judges, while Clinton made more liberal appointments, including two to the Supreme Court. Clinton appointed 373 federal judges by the end of his second term. Clinton appointed Ruth Bader Ginsburg, in 1993, and Stephen G. Breyer, in 1994, to the Supreme Court. Both have acted as a "brake" on the Court's conservative tendencies. Ginsburg had a particularly vigorous dissent in the Court's 2000 decision involving the stopping of the voting recount in Florida's presidential election.

A majority of the Supreme Court has been appointed by Reagan and Bush. Reagan appointed the first woman to the Supreme Court, Sandra Day O'Connor, in 1981. Reagan also selected Anthony Kennedy, and Bush selected David Souter (conservatives later considered this a mistake). In addition, Senate confirmation hearings have become testier (Bork, Thomas), and this has continued during the Bush

Administration, given the pattern of divided government. In 2002, President Bush accused Democrats in the Senate of not filling 88 vacancies for the federal courts.

- E. Jurisdiction. Refers to the matters over which a court may exercise its authority. The federal courts have jurisdiction over all disputes relating to the Constitution and treaties of the United States (jurisdiction assigned by the subject), as well as over all cases involving the United States as a party, two states or two citizens of separate states, ambassadors, or a citizen of the United States and a foreign citizen (jurisdiction assigned because of the parties). The courts have either exclusive jurisdiction or concurrent jurisdiction, which they share with state courts.

## II. The United States Supreme Court

The membership includes one chief justice and eight associate justices (Congress can set by law the number of justices on the Supreme Court). A very small number of the total cases handled by the federal court system ever reach the Supreme Court. Of more than 10 million cases tried in American courts, only 7,400 petitions for review make it to the Supreme Court. The Court agrees to consider only about 140 cases in a term. Most cases appear only in the form of petitions for a *writ of certiorari*, which is an order from a higher to a lower court, requesting the records of a case. The Court denies 85-90 percent of these petitions. The Court has both original and appellate jurisdiction.

- A. The Final Authority? The Supreme Court is said to be the final authority, but a ruling may be reversed by a later Court ruling or by an amendment to the Constitution. (An 1895 Court decision

striking down the federal income tax was reversed by the Sixteenth Amendment, which legalized that tax.) The Court also shares its power to interpret the constitution with the executive and legislative branches. Public opinion may also not be receptive to a ruling (school prayer).

- B. Early Years of the Court/Judicial Review and National Supremacy. In its first three years, no cases at all were brought to the Supreme Court. But two early decisions greatly increased the power of the Court. In *Marbury v. Madison* (1803) the Court invalidated an act of Congress for the first time, establishing the principle of judicial review; *McCulloch v. Maryland* (1819) held that the federal government is supreme within its sphere of powers. John Marshall, perhaps the Court's greatest leader, was Chief Justice for both cases. In 1857, the Supreme Court invalidated the 1820 Missouri Compromise by its ruling in the *Dred Scott* case. The ruling represented a major expansion of the court's judicial powers.
- C. The Court After the Civil War. Since the Civil War, the Court became both more active and more conservative in its responses to the growth of government regulation of the economy. Many argue that the Court simply protected property rights of the rich and ignored public demands for government regulation. It continued to resist the expansion of state and federal regulatory power until 1937, when it was forced to leave the arena of economic policy-making, after a confrontation with Roosevelt. FDR also tried to "pack" the court, albeit unsuccessfully.
- D. The Modern Courts. The Supreme Court today shows three major trends: (1) it has struck down much less legislation than did earlier Courts; (2) it has avoided protecting private property rights against government regulation; and (3) it has shown



increased concern for the rights of individuals against the growing power of government. The Court has taken a leading role in eliminating racial discrimination, in the reapportionment of election districts (*Baker v. Carr*), and in protecting the rights of criminal defendants (*Miranda v. Arizona*). The Burger Court, while less active than the Warren Court before it, made major decisions by legalizing abortion, allowing publication of the Pentagon Papers, allowing local communities to define obscenity, and restricting affirmative action programs. The Burger Court did leave the *Miranda* decision in place.

The Rehnquist Court (1986- ). The Rehnquist Court has embraced judicial activism in support of federalism. It has invalidated twice as many federal laws as the activist Warren Court. It has struck down both conservative positions (stopping the execution of mentally retarded offenders) and “liberal” laws (allowing random drug tests of high school students; the *Bush v. Gore* decision). However, during the 1995 term, the Court did move in a clearly conservative decision in the areas of race and religion (*Rosenberger v. Rector and Visitors of University of Virginia*), approving government funding for a religious activity. The Court also allowed government vouchers in its 2002 *Zelman v. Simmons-Harris* ruling. In the area of term limits, the Court ruled, in 1998, that the president’s line-item veto authority was not constitutional (*Clinton v. City of New York*).

Other areas affected included limiting the power of Congress to regulate interstate commerce (*United States v. Lopez*), throwing out a congressional law that allowed victims of violence to sue in federal court against their assailants (*U.S. v. Morrison*), and ruling that federal agencies may not hear complaints by private parties against states (*Federal Maritime Commission v. South Carolina Ports Authority*). In short, the “focus of the Court

seems to be on the federal government—including Congress—which it views as too big, too powerful, and often, too incompetent.” Whether this perspective will continue will depend on what type of Justices will replace those nearing retirement (at least 3 justices are over 70 years of age).

### III. Strengths and Weaknesses of the Supreme Court

- A. Internal Limits on the Court. The internal limits include the need for an actual case, the Court’s refusal to resolve political questions, the avoidance of constitutional issues whenever possible, and the tendency to follow precedent (*stare decisis*). Note that regarding a political question, the Court is flexible, as exemplified by *Baker v. Carr* and *Bush v. Gore*.
- B. External Limits. These involve congressional powers to limit the Court’s jurisdiction and to approve Court nominees. With no army or bureaucracy to enforce its decisions, the Court’s authority is dependent upon the other branches of the government and upon all the political players accepting their opinions.
- C. Strengths of the Court. Its enormous prestige, the fragmented nature of the American constitutional structure, and the legal profession (role of the ABA), which acts in large part as the court’s constituency, all add to the Court’s strengths. The court’s prestige is unquestionable. These supports and the Court’s self-limitations have preserved the unique tradition of judicial review and the central importance of the Supreme Court in the political game.

### IV. The Court as a Political Player

- A. Introduction. The Court is a political as well as a legal institution; it makes decisions that set public policy. Its authority remains dependent on the acceptance of its decisions by other branches of the government and by the public. The Court cannot ignore the reactions to its decisions in Congress or in the nation.
  
- B. Judicial Restraint Versus Judicial Activism. These are the two competing approaches to the use of judicial authority. Judicial restraint calls for the Court to play a passive role, allowing the other branches of government to lead the way in shaping policy. Judicial activism sees the Court as an active partner with the other branches in resolving problems facing the country. The Warren Court exemplified judicial activism. Judicial activism and restraint should not be confused with liberal vs. conservative, as recent examples of judicial activism include the Rehnquist Court decisions limiting federal authority over the states and halting the vote count in the 2000 Florida election, both of which were seen as conservative reversals of liberal policies.

V. Case Study: Separate but Equal?

The Court's role as a political player is revealed in the changing political forces surrounding the issue of racial segregation. After the Civil War, attempts were made by radical Republicans, who controlled Congress, to guarantee full civil rights to blacks. However, both the increasing power of the white South and Supreme Court rulings negated these civil rights laws. In the *Plessy v. Ferguson* decision of 1896, the Court approved the doctrine of "separate but equal," thereby sanctioning legal segregation of the races through state "Jim Crow" laws. Although the court increasingly undercut the doctrine of segregation, starting in the 1930s, it did not overrule *Plessy* until 1954, in *Brown v. Board of Education*. After this

decision, the Court moved to encourage integration in a number of areas of American life and to support the civil rights movement. The Court's tardiness in overruling *Plessy*, as well as its present reluctance to vigorously combat discrimination, reflects the larger political climate and the political limits in which the Court operates.

### **KEY CHAPTER TERMS AND IDENTIFICATIONS**

Article III, Section 1 of the Constitution

State courts

U.S. District Courts

original and appellate jurisdiction (appeals)

U.S. Courts of Appeals or Circuit Courts of Appeal

special federal courts

U.S. Claims Court

U.S. Court of Military Appeals

Robert H. Bork

Alcee Hastings

A "vacancy crisis" in the federal courts

Anita Hill and Clarence Thomas

Chief Justice Earl Warren

Sandra Day O'Connor, Ruth Bader Ginsburg

Stephen G. Breyer

Senatorial courtesy

exclusive and concurrent jurisdiction

subject of the case; parties to the case

Supreme Court of the United States

Memorandum orders

*writ of certiorari*

Dred Scott decision (1857) and Missouri Compromise (1820)

*Marbury v. Madison* (1803) and judicial review

*McCulloch v. Maryland* (1819) and national supremacy

Implied powers  
Dred Scott v. Sandford (1857) and property rights (slaves)  
Chief Justice John Marshall  
States' rights vs. federal powers  
FDR's "court-packing scheme" and New Deal  
reapportionment  
*Baker v. Carr* (1962)--"one man, one vote"  
*Miranda v. Arizona* (1966)  
Pentagon Papers  
"political questions"  
Warren Court  
Burger Court  
Rehnquist Court  
*Bush v. Gore* (2000)  
*Rosenberger v. Recto and Visitors of University of Virginia* (1995)  
*Zelman v. Simmons-Harris* (2002)--allowing government vouchers  
*U.S. Term Limits Inc. v. Thornton*  
*United States v. Lopez* (1995)  
*Clinton v. City of New York* (1997)  
*Federal Maritime Commission v. South Carolina Port Authority* (2002)  
*Dickerson v. United States* (2000)  
*U.S. v. Nixon* (1974)  
"Political Questions" and constitutional issues  
precedent or stare decisis  
Judicial Restraint vs. Judicial Activism  
Court's prestige; fragmented nature of American governmental system  
ABA  
Thirteenth, Fourteenth, and Fifteenth Amendments  
Jim Crow laws, "Sundown Ordinances"  
*Plessy v. Ferguson* (1896)  
*Brown v. Board of Education* (1954)  
Civil Rights Act of 1964  
Affirmative action

## **TEACHING SUGGESTIONS**

1. Review the backgrounds and judicial philosophies of the nine current justices of the Supreme Court. Ask members of the class to consider which justices comprise the “liberal faction” and which justices belong to the “conservative” coalition. Then, examine a couple of current Supreme Court rulings to demonstrate how the Court’s internal fragmentation, especially the recent 5-4 divisions, affected these rulings.
2. Arrange a debate between two student teams regarding the merits and demerits of judicial activism versus judicial restraint. Make sure both liberals and conservatives are represented on both sides. The students can prepare short briefing papers on the two judicial philosophies, which may be distributed to other members of the class prior to the debate. The teams may wish to use *Bush v. Gore* as part of their presentations.

## **SUGGESTED RESEARCH ASSIGNMENTS**

1. Ask a panel of students to research the kinds of pressures placed upon Supreme Court nominees when they undergo Senate confirmation. The students can research those “rejected” examples, such as Bork and Carswell, controversial nominees such as Clarence Thomas, and successful nominees such as Sandra Day O’Connor or Clinton’s 1994 choice, Stephen Breyer.
2. Divide the class into three sub-groups. Let one group prepare an oral report on the current Court’s attitude toward federalism. Another

group can report on the latest rulings affecting civil rights, while a third group can handle cases affecting police powers.

## **CHAPTER SIX**

### ***Civil Rights and Liberties: Protecting the Players***

#### **CHAPTER OVERVIEW**

This chapter distinguishes between civil rights and civil liberties, with a number of real-life examples. The debate between those who advocate a partial incorporation of the Bill of Rights into the Fourteenth amendment, as it applies to state governments, and those who suggest a complete incorporation is also covered. The four most important civil liberties-- speech, religion, privacy, and due process-- are discussed fully. The chapter then proceeds to the area of civil rights. Specific coverage is given to race and sex, as “suspect classifications,” as well as to the “actors in civil liberties and rights”--judges (activism vs. restraint), legal defense funds, private attorneys general, state agencies, and the public. The chapter concludes with a case study on protecting liberties during the U.S. war against terrorism.

#### **LEARNING OBJECTIVES**

After reading chapter 6, the student should be able to:

1. Distinguish between the meanings and legal implications of civil rights and civil liberties.



2. Explain the doctrine of incorporation and the debate that surrounds it.
3. Apply recent court decisions to the four most important civil liberties, explaining how those liberties have been modified.
4. Define such important terms as “suspect classifications,” equity, judicial activism/restraint, “private attorneys general,” landmark decisions, injunctions, exclusionary rule, and affirmative action.
5. Summarize the key points from the chapter’s case study on "Fighting Terror. Protecting Liberties."

## **OUTLINE**

- I. Civil Rights and Liberties in the Game Analogy. These important rules that protect the players govern both the legitimate means and ends of the political process. They tell us how to play the game, as well as why we ought to play (e.g., to protect freedom of speech and religion). They are based on two principles: that the government must not violate the rights of its citizens, and that government has an obligation to provide equal protection under the law for all groups in society. This chapter focuses on how the courts and other players protect civil rights and liberties.
- II. What are Civil Liberties and Rights?
  - A. Civil Liberties. Defined as a set of protections against government restrictions on the rights of speech, petition, assembly, and the press. These rights protect people when they participate in the democratic political system. American government is one of laws, guaranteeing each citizen due process proceedings to ensure individual liberties. Protection of civil

liberties is central to such issues as the right to criticize and oppose current policies, such as government censorship, and the right to organize for elections.

- B. Civil Rights. Defined as a set of protections (granted in the Fourteenth Amendment) against discrimination on the basis of race, religion, ethnicity, or gender. The Constitution recognizes that all citizens must be treated equally under the laws and, therefore, forbids discriminatory treatment of minorities or other groups. Conversely, no racial, religious, or ethnic group can claim privileged treatment. Everyone is affected by civil rights issues.

### III. Expanding the Bill of Rights

The original Bill of Rights applied only to the federal government. It has been expanded, through the use of the Fourteenth Amendment, to apply to state governments and individuals, and extended to cover new issues, such as due process rights in private institutions like universities.

- A. Uses of the Fourteenth Amendment. The “due process” and “equal protection” clauses of this amendment, ratified in 1868 after the Civil War, have been used by the federal courts to expand the application of the Bill of Rights to state governments, as well as the federal government. The equal protection clause has been applied to racial and sex discrimination in areas involving state interests or laws. It has also prevented discrimination by private individuals, when their actions are aided by the state, furthers state activity, or involves a fundamental state interest. The vague phraseology of the due process clause has led to a debate over the extent to which the Fourteenth Amendment incorporated the Bill of Rights.

B. Partial Incorporationists versus Complete Incorporationists.

These are two competing judicial interpretations of the Fourteenth Amendment. Partial incorporationists argue that only some parts of the Bill of Rights should be included in the meaning of “due process.” They point to procedures guaranteeing fair trials and the First Amendment freedoms. In short, preferred freedoms—liberties necessary for a democracy to function—should be incorporated. The courts must decide applicability in each case. Complete incorporationists argue that every provision of the Bill of Rights is covered by the Fourteenth Amendment and must be recognized by the state courts. While the Supreme Court has never adopted full incorporation, the cumulative effect of federal court decisions has been to incorporate almost all of the Bill of Rights into the Fourteenth Amendment.

IV. Civil Liberties: Protecting People From Government

Civil liberties provide protection for players in the political game against abuses of government authority, while making sure electoral losers have a fair chance to get back into power. These rules are essential to allowing democracy to work. They enable people to keep informed and to communicate with each other, and with the government, without fear. Indeed, Supreme Court Justice Oliver Wendell Holmes wrote that a democratic society needs competition among ideas as much as it needs economic competition. Fundamental to Holmes’s thinking was that good ideas will drive bad ideas out of the market, with the public rejecting the false over the true. However, propaganda may sometimes overwhelm reason. A closer look at four important liberties (freedom of speech, freedom of religion, right to privacy, and due process) demonstrates their importance to the democratic processes of open discussion, opposition, and reform.

- A. Freedom of Speech. This guarantee has been expanded to state governments under the Fourteenth Amendment, and the definition has been broadened to include such things as membership in organizations, public demonstrations, leafleting, symbolic speech (“speech plus”—including burning flags or wearing buttons with a message), and, with some debate, speech in cyberspace. The Supreme Court upheld congressional laws that make it a crime to conspire to overthrow the government by force, but belief in revolution is not a crime as long as conspiracy or an actual act cannot be proven. However, the First Amendment does not protect speech that motivates listeners to illegal conduct or, apparently, politically incorrect acts on some college campuses. The First Amendment also protects you by prohibiting the government from forcing you to say anything you don’t believe (i.e., Jehovah’s Witnesses and Pledge of Allegiance case).

The First Amendment does not protect speech that leads to illegal conduct (yelling fire in a crowded theater when there is no fire), libel or slander, making or selling child pornography, or “fighting words.” However, free speech online, even if pornographic, has been protected by the Supreme Court in the *Reno et al. V. ACLU et al. Ruling* (1997). See “Freedom on the Internet” text insert.

- B. Freedom of Religion. Although there has never been a complete separation of church and state in America, the increasing political power of Christian fundamentalists has led them to attempt to redefine church-state relations. A constitutional amendment to allow school prayer is an example of the freedom of religion controversy, and recent government guidelines have attempted to navigate this controversy. Most Americans favor

prayer in school, viewing it as an issue of the free exercise of religion. However, most Americans also believe that government must not favor one religion over another.

Yet, there has never been complete church-state separation. Note President George W. Bush's plan to give government funds to faith-based groups for their charitable work. Also, note the 2002 Supreme Court ruling that educational vouchers were neutral in respect to religion, even though those government-funded vouchers could be used by parents to send their children to religious schools. See "Dos and Don'ts on Religion in the Public Schools" text insert.

- C. Rights of Privacy. Protection from government intrusion into the private lives and beliefs of citizens is guaranteed by the First and Ninth Amendments. Although not explicitly mentioned in the Constitution, the courts have created a "zone of privacy," guarding individuals from government intrusion. Issues of sexual conduct between adults (the state cannot prevent couples from using contraceptive devices) and abortion (states cannot forbid abortions in the first three months of pregnancy) are recent examples of the right to privacy. But the courts have also placed limits on some of these freedoms. For example, homosexual marriages need not be recognized by the states and states are not required to fund abortions for those individuals who cannot pay for them. Finally, in *Romer v. Evans* (1996), the Supreme Court ruled that Colorado could not single out gays and prohibit local laws designed to end discrimination against them.
  
- D. Due Process Rights. These rights involve fundamental procedural fairness and impartial rulings by government officials, especially in criminal procedures. For example, these procedural guarantees include the presentation of charges, the right to a

lawyer, time to prepare a defense, a speedy and fair trial by an impartial judge and jury of peers, and the right to appeal. These rights have been extended to state criminal trials and to other settings, such as educational and social service hearings. These rights were granted in federal criminal trials under the Fifth and Sixth Amendments.

V. Civil Rights: Protecting People From People

The government can assume a positive role in protecting the rights of minorities of race, religion, sex, or national origin. Minorities may seek redress for discrimination through the political or judicial system. Of course, civil rights issues are not always clear cut. Minorities that achieve the status of “protected class” are eligible for inclusion in affirmative action programs. Ironically, minorities seeking protection under affirmative action programs increasingly come into conflict with one another, rather than with the majority. Nevertheless, these programs have also fueled white resentment against “reverse discrimination.”

A. Which People Need Protection? Suspect Classifications. A limit placed by the courts upon the government’s ability to classify and legislate for certain groups. With respect to any economic issue, the laws passed by Congress or state legislatures are routinely approved by the judiciary, under the doctrine of “presumptive legislative rationality.” On the other hand, if lawmakers apply racial or religious classifications, the courts subject these to “close scrutiny,” because these are “suspect” classifications. The burden of proof is on the government to prove that laws for a suspect category (i.e., a racial group) are necessary. Racial classifications are almost always considered suspect and are therefore struck down. Courts usually strike

down most gender classifications, but a few are upheld, such as women not having to register for the draft.

- B. Race as a Suspect Classification. In 1896, the Supreme Court in *Plessy v. Ferguson* supported state actions that segregated the races. But over a half-century later, in the landmark case of *Brown v. Board of Education*, the Court reversed itself and established race as a suspect classification. The courts then struck down all laws based on race. This has been modified to allow government to make laws that will serve to eliminate prior inequities caused by state-sponsored segregation. But the Rehnquist Court's 1989 decision in *City of Richmond v. Croson* and *Adarand v. Peña* (1995) seemed to throw all racial classifications into question. While not declaring all affirmative action programs unconstitutional (the 1978 *Bakke* case had seen the principle of affirmative action upheld), the Court made clear that there had to be a "compelling interest" to relieve a specific case of discrimination. Most existing programs were not expected to survive the Court's "strict scrutiny." Other branches of government have responded to the Court's actions. In California, voters passed Proposition 227, which banned the use of race and sex in college admissions and public employment. The argument over affirmative action continues, as noted in the text by the Coleman-Sowell debate.
- C. Is Sex Suspect? Laws based on sex were supported in the past, because they were thought to protect women. These laws were known as "protective legislation." The women's movement has objected to these laws as paternalistic, but sex remains an "uncertain" suspect category. The federal courts do retain part of the protective movement (i.e., sexual harassment laws). The Supreme Court has struck down many laws based on sex, although the "rule of intention" favors the government because

victims of sex discrimination must prove that officials intended discrimination. It is likely that more sex-based classifications will fall as a result of present standards applied by the courts.

## VI. Actors in Civil Liberties and Rights

The government, as well as voluntary organizations, are players in the political game, attempting to strike a balance between competing claims.

- A. Judges. Judges play a leading role in developing civil rights and liberties. Two approaches to the use of law shape society. Activist judges, along with those called civil libertarians, may support civil liberties and rights by backing class action suits that have wider implications, or by applying the concept of equity. Equitable remedies allow the courts to prevent future discrimination by shaping remedies not covered by existing law, such as requiring school districts to develop plans overcoming racial imbalances. Non-activist judges are unsympathetic to class actions and tend to stress existing policies developed by Congress and the president. They tend to follow past decisions rather than expand the scope of constitutional protections. They see elected officials as being more accountable to the people.
  
- B. The Justice Department. Historically, the Department of Justice has played a key role in protecting civil rights and liberties. But its role has varied by administration. The Department in the Reagan and Bush administrations opposed many civil rights measures, but the Clinton administration has been generally supportive of civil rights groups and causes in a quiet way. George W. Bush, elected with little black support, has pursued a moderately conservative course toward civil rights, although



opposing affirmative action. Bush's Attorney General John Ashcroft is likely to be less active in civil rights enforcement.

- C. “Private Attorneys General.” These are privately supported groups that sponsor cases against the government or other groups. They are funded in part by foundations and wealthy donors, and in part by dues-paying members. The largest of these, the American Civil Liberties Union (ACLU), handles more than 6,000 cases a year defending the rights of such groups as women, minorities, students, and minors. Legal defense funds have also been formed by minority group associations, such as the NAACP Legal Defense and Educational Fund. These focus their efforts against discrimination in housing, schools, employment, voting rights, and the legal system.
  
- D. Legal Strategies. These organizations use a variety of legal tactics. They search for patterns of discrimination, they write articles in law journals, they offer services to individuals whose rights may have been violated. Organizations such as the ACLU concentrate on offering their services to individuals unable to pursue their cases alone, in the hopes of finding a test case (i.e., one that has a good chance of setting a new precedent). These legal groups hope that their case will be argued in the Supreme Court, where it will become a landmark decision, creating a new legal standard that affects later decisions in the same area.
  
- E. Obeying the Courts. In addition to declaring state laws unconstitutional, the courts can issue injunctions and court orders to ensure that rights are protected. Federal orders must be obeyed by state officials and can be enforced by citations, fines, jail sentences, and the use of federal marshals or, as both Eisenhower and Kennedy did, troops. Compliance often requires pressure from federal authorities, as was the case with police

departments following the warning guidelines of *Miranda*. The police were further pressured by the courts applying the exclusionary rule.

- F. Public Opinion and Civil Liberties. Judicial decisions are often not supported by public opinion. A majority of the public does not believe that criminals should be released on “legal technicalities.” The judiciary is not directly accountable to the public, and debate over its pronouncements is a sign of health in the system, although dissent may interfere with compliance.

## VII. Case Study: Fighting Terror and Protecting Liberties

After 9/11, a potential conflict emerged between security against terrorist attacks and the Constitution's civil liberties. Over 1200 people suspected of terrorist links were locked up without judicial review, counsel, or open hearings. Historically, the executive branch has abridged liberties (Lincoln, Wilson, FDR), and the courts, along with public opinion, have supported those actions. The Bush Administration defended its steps to thwart terrorism, but critics argued that the subversion of the Constitution could not be defended. The case of Yasser Hamdi, an American citizen declared an "enemy combatant" and held incommunicado in a Navy jail, is illustrative.

A federal judge ruled that Hamdi had the right to an attorney. The essential issue was "whether the government could refuse to give U.S. citizens it says are enemy combatants the opportunity to tell their side of the story to any court, to a lawyer, or to the public." The result was that "assertive courts and congress insisted on more balance between liberty and security."

## KEY CHAPTER TERMS AND IDENTIFICATIONS

civil liberties

civil rights

Bill of Rights--1791

Fifth Amendment

Fourteenth Amendment

“Due process” and “equal protection” clauses

campus “speech codes”

preferred freedoms--mostly derived from First Amendment

partial versus complete incorporationists

First Amendment freedoms--speech, religion, privacy, due process

“speech plus” (symbolic actions)

libel and slander, “yelling fire in a crowded theater”

Communications Decency Act of 1996

*Reno et al. v. ACLU et al.* (1997)

school prayer and "free exercise of religion"

educational vouchers

“Zone of privacy”

*Romer v. Evans* (1996)

due process rights

affirmative action

suspect classifications--race and sex

“close scrutiny”

*Plessy v. Ferguson*

*Brown v. Board of Education*

*University of California Regents v. Bakke*

*City of Richmond v. Corson*

*Adarand v. Pena*

Proposition 227

equality of opportunity

equality of results

“Our Constitution is color-blind” (Justice Harlan)

civil libertarians  
*Oncala v. Sundowner*  
class action suits  
equity law  
private attorneys general  
American Civil Liberties Union  
NAACP Legal Defense & Educational Fund  
National Organization for Women Legal Defense and Education Fund  
test case  
landmark decision  
injunctions and orders  
Little Rock Central High School  
*Miranda v. Arizona*  
exclusionary rule  
Alien and Sedition Acts  
Civil Liberties and Terrorism  
Taliban and Due Process  
"enemy combatants"  
Yasser Hamdi

## TEACHING SUGGESTIONS

1. Invite a representative of the ACLU to class. The function of the ACLU can be explained to the class, as well as a number of important cases involving civil liberties.
2. If possible, obtain a video of the documentary *EYES ON THE PRIZE*, which chronicles the civil rights struggle in this country. By showing it to the class, the full drama of the civil rights movement can be realized.
3. Ask students their opinions on whether prayer should be permitted in the public schools. Despite the prohibition against prayer, it is possible that students may have experienced religious activities in their high schools before coming to college.
4. Set up a debate involving the issue of the Internet and pornographic materials. As preparation for the debate, review the Supreme Court ruling (Reno).

## SUGGESTED RESEARCH ASSIGNMENTS

1. Study how other democracies approach issues of civil liberties and civil rights. How are freedom of speech laws different in Great Britain, for example, as compared with the U.S.? How are they similar?
2. Ask a team of students to interview local police officers regarding their use of the *Miranda* warnings in making arrests. In addition, what search and seizure procedures are they obligated to follow? The results of the interviews can be tabulated and form the core of a term paper.
3. Ask a few students to investigate the speech standards on their own campus. How have they evolved? How have they been applied? Are

students and faculty familiar with them? How much support is there for them at your college?

## **CHAPTER SEVEN**

### ***Voters and Political Parties***

#### **CHAPTER OVERVIEW**

This chapter begins by examining the reasons for the growth of non-voting in America. Among these are social class, the political socialization process, electoral barriers (registration), and income and educational levels. Subjectively, there is the growing lack of political efficacy and citizens' distrust of government. The historical development of American political parties and the two-party system is discussed, as are maintaining, deviating, and realigning elections. The arguments of whether or not we are currently undergoing a political realignment are covered as well. The functions, organization, and present viability of our two major political parties are then discussed. The chapter concludes with a case study on "E-Campaigning in the 2000 Election."

#### **LEARNING OBJECTIVES**

After reading chapter 7, the student should be able to:

1. Explain those factors that influence whether a citizen will vote or not vote, such as class, occupation, income, partisan loyalty, registration requirements, and the sense of political efficacy.

2. Define and explain the significance of the political socialization process.
3. Diagram the structure of the modern American political party.
4. Discuss the evolution of the American party system, from the Federalists to the Whigs to the Republicans and Democrats.
5. Distinguish among maintaining, deviating, and realigning elections.
6. Itemize the main functions of a political party.
7. Explain the factors that have promoted, and currently weaken, the two-party system in America.
8. Discuss the arguments for and against a current presidential realignment.
9. Discuss the pros and cons of “E-campaigning,” using the 2000 election as a basis for that discussion.
10. Differentiate between “hard” and “soft” money and discuss the impact of the McCain-Feingold-Cochran campaign finance reform bill.

## **OUTLINE**

### I. Voters

- A. Who Votes. While citizens who are 18 or older and who have satisfied residency requirements are eligible to vote, voter turnout has declined in most recent presidential elections. The first significant increase since 1960 occurred in 1992, when 54



percent of the voting-age population voted, but voter turnout declined again in 1996. In the 2000 presidential election, 51.2 percent (105 million people) of the eligible population voted (up 2.2 percent from 1996, but lower than the 62.8 percent who voted in 1960). In 1998, only 37.6 percent of eligible voters turned out. In 2002, only 39.3 percent of eligible voters went to the election booth. This turnout was still 20 percent lower than midterm elections in the 1960s. So, what influences people voting, and why has non-voting generally increased?

- B. Political Socialization. This is the process of learning political attitudes and behavior. Family background, schooling, peer groups, and ethnic and religious characteristics all influence the way people vote. Catholics vote Democratic more than Protestants and overwhelmingly favor aid to parochial schools; Jews and blacks tend to vote Democratic and are more supportive of social programs.
  
- C. Class and Voting. Class is defined as a group's occupation and income, as well as its awareness of its relation to other classes. Class is very important in shaping political attitudes. The three broad classes--upper, middle, and working--show differences in people's political views; but these "objective" categories are really "subjective," because most Americans, whatever their incomes, view themselves as being middle class. However, class, as it is reflected in education, income, and occupation, does influence people's attitudes. For example, working-class people tend to be more conservative on civil liberties and more liberal on economic issues. Middle-class people show opposite tendencies in these two areas.

Government policies and economic growth impact classes differently. During the prosperous 1990s, the income for 90% of

families barely changed, compared to a \$69,000 increase in average income for the top 1 percent of Americans, from 1996-1997. This increase was nearly triple the total average income of the bottom 90 percent.

## II. Who Doesn't Vote

- A. Non-voting has grown in recent years and appears greater among the lower classes. Non-voters are less educated, non-white, rural, southern, poor, blue-collar, and very old or very young. Part of the reason for increased apathy derives from alienating events, like Watergate and Vietnam. More important has been the socialization of the working class and the American belief in a “classless society,” which discourages working-class issues and participation. Generally, the “people with the biggest stakes in society are the most likely to go to the polls.”
  
- B. Barriers. Electoral barriers and a lack of political efficacy have also been identified as reasons for low turnout among the poor and working classes. State registration laws often make voting inconvenient, but the 1993 Motor Voter legislation made registration easier, by allowing voters to register when they get their drivers' licenses. Also, the six states that had same day registration witnessed higher voter turnouts. Still, in 1996, fewer people registered to vote and even fewer voted. By 1998, registration numbers increased, but voter turnout continued to decline.
  
- C. Subjective Explanations. The category of “non-voters”—more than half of the American population—covers a great deal of ground. While it is true that non-voters feel alienated from government, this is also true for voters. Since the mid-1960s, people have lost confidence in Washington. Indeed, today, three out of four people say they no longer trust government—the exact opposite from the early 1960s. Events such as Vietnam,

Watergate, Iran-Contra, and Monica Lewinsky have contributed to a popular distaste for government. There remains an uncertainty about the causes of growing non-voting in America.

The vote is still a powerful agent of change. For example, even though Jesse Jackson was an unsuccessful presidential candidate, his two races increased the registration of new black voters. This, in turn, allowed the election of officials who were more sympathetic to the needs of the poor. Another example was the 1994 congressional elections, when GOP control of Congress led to new conservative approaches to policy.

### III. History of Political Parties

A political party is an organization that supports candidates for public office under a specific label. The Constitution, by decentralizing and diffusing power, created a need for political parties to centralize and concentrate power.

- A. The Rise of Today's Parties: The Federalists and Anti-Federalists were originally factions that formed because of disagreement over constitutional issues. They later developed into parties. The Federalists championed a strong national government, while the Anti-Federalists became the Democratic-Republican party (led by Thomas Jefferson), supported the interests of the small farmer, and kept control of the government until 1828, when it split into two new parties, the Whigs and the Democrats. Under Andrew Jackson, the Democratic party became identified, at that time, with the common people. The Republican party, formed in 1854 as an antislavery party, first won the presidency with Abraham Lincoln.
- B. Maintaining, Deviating, and Realignment Elections. Elections are either maintaining (keeping party strength constant), deviating

(showing a temporary shift in popular support for a party), or realigning (showing a permanent shift in support for and strength of a party). Between 1860 and 1932, the Republicans maintained control with only temporary deviations, for example, in the elections of Wilson, in 1912 and 1916. In 1932, there was a major realignment, in which the Democrats became the majority party under FDR. Some analysts feel that the 1980 election may have reversed this alignment, but, even though Bush's 1988 win was solid, lower voter turnout and the Democrats' control of Congress make a near-term pattern of partisan balance seem more likely than a realignment. Bill Clinton's victories, in 1992 and 1996, made the argument for Republican realignment doubtful, while the GOP's control of Congress since 1994 (for the first time, a majority of southerners voted Republican for Congress) countered the Clinton effect. The GOP kept its majority in Congress through the 1996 and 1998 elections and, in 2000, the GOP won the presidency with George W. Bush, as well as control of both houses of Congress. In 2002, clear Republican majorities were obtained in both the House and Senate, as voters responded to a popular president, a united Republican party, and a Democratic party in disarray. However, political pundits were unsure as to whether the New Deal coalition was dead and whether the lack of strong party loyalties among independent voters made a realignment of the parties likely.

- C. Democrats versus Republicans versus Independents. There is a difference between party image and party reality. The image of the typical Republican (WASP, big business, law and order, etc.) and the typical Democrat (minority, working class, urban, etc.) are stereotypes, and the reality is more complex. Party leaders are more extreme in their views than are their moderate followers, and both parties are divided within by moderate and

extreme wings. Independent voters are growing, as party ties weaken. The “new independents” are as politically astute as partisans, although there is a debate over whether they are really closet partisans (the “myth of the independent voter”). Party identification is still the strongest predictor of voter behavior, but a decline in partisanship has led to the 2001 poll trends, revealing that 40 percent of adults were independents, 34 percent Democrats, and 26 percent Republicans. In short, voters are less attached to the two parties (rise of media, candidate-centered campaigns, divisive events, issue voting).

D. Party Functions

1. To contest elections. The party takes positions on issues and gives people a basis for making a choice. It educates voters on the process and the issues, and recruits people to work directly in campaigns.
2. To organize public opinion. The party provides a channel of communication for people’s ideas, and for voter approval or disapproval.
3. To aggregate interests. The party organizes many special interests into larger coalitions under the party umbrella.
4. To incorporate changes. The party responds to movements outside the major parties that show widespread support.

IV. View From the Inside: Party Organizations

- A. Machines—Old and Modern. Parties are no longer strongest at local levels. Rigidly organized local parties (“machines”) have been weakened by the institution of public welfare agencies, civil service reforms, and direct primaries. An example of the “old” machine was Richard Daley’s Democratic party organization in Chicago. It was based on ethnicity and patronage. “Modern

machines” based on candidates, not parties, have used new voter-contact technology to prosper. Many members of Congress now maintain Leadership PACs that promote their ambitions for higher office through the raising of money. Finally, most recent White Houses have been charged with using campaign staffers to form modern political machines (i.e., the “permanent campaign”).

- B. American Party Structure. The pyramid structure of local, county, and state parties continues to underpin the national party organizations. Note that the job of “out-party” officials is “to show that the party is still alive,” through fundraising and voter registration drives. For the in-party, government officials use the party organization, not vice versa. Finally, state parties are usually stronger than local parties, due to their linkages with the national party structure, professional staffers, distribution of funds, and patronage.
- C. National Party Organization/Soft Money. Between elections, a national committee, which maintains a professional staff, governs each party. Recently, led by the Republicans, the national parties have been strengthened. The GOP has retained a fundraising advantage over the Democrats, although the gap has narrowed (in 2002, GOP party committees raised \$527 million, the Democratic party committees, \$344 million; previously, in the 1999-2000 election cycle, GOP party committees raised \$692 million, compared to the Democratic party’s \$513 million). The GOP also holds a substantial lead in “hard money” contributions, compared to the Democrats, due to their large pool of small donors (\$447 million compared to \$270 million). The GOP funding base also has produced party loyalty in Congress and the ability to buy expensive campaign technology.

Much of the party activity at the state and local levels is supported by “soft money,” which includes unregulated contributions that are supposed to be used for party-building and get-out-the-vote activities. The national party committees raise soft money from wealthy individuals, corporations, and unions. These large donations are very controversial and led directly to the 1996 fundraising scandals. In response, the McCain-Feingold-Cochran Campaign Reform Bill, banning all soft money contributions to national political parties and phony advocacy ads run by corporations and unions around election time, was introduced in the 107<sup>th</sup> Congress. It eventually became law, in early 2002. However, both parties were seeking new ways to collect soft money contributions.

- D. The National Convention. National conventions are held every four years. The delegates, chosen by state party organizations in various ways (70 percent chosen now through primary elections), adopt a platform, a statement on issues used to distinguish the party’s position from that of the opposition. Individual “planks” (issues) in a platform can be controversial during a convention, such as GOP women, in 2000, pushing (unsuccessfully) for a plank supporting abortion rights. By a simple majority vote, the delegates elect their nominee for president. In recent decades, the presidential nominee has been chosen on the first ballot. The nominee usually chooses a vice president who will “balance” the ticket. A good example was the Dukakis (Mass.) choice of Bentsen (Texas), in 1988. In 2000, the vice-presidential nominees were aimed at bolstering the weaknesses of the presidential nominees (i.e., Cheney’s experience in the federal government and Lieberman’s anti-Clinton stand on moral issues).

V. View From the Outside: The Two-Party System

The United States has a two-party system nationally, but locally, various arrangements have existed. The “solid” (Democratic) South traditionally had, until recently, a one-party system, for example, and Minnesota is said to have a three-party system (Ventura and the Reform party).

A. Causes of the Two-Party System

1. Historic dualism. The original Federalist/Anti-Federalist division established the tradition of two-party domination in the country.
2. Moderate electorate. Did the system make voters moderate, or vice versa? Still, Americans do not like extreme political choices.
3. Structure of our electoral system. Plurality penalizes minority parties. By contrast, proportional representation ensures minority parties at least some representation.
4. The adaptability of the two major parties. This allows for the absorption of third parties and their ideas. Thus, the Democrats co-opted organized labor from the Socialists. Al Gore tried to win votes from Ralph Nader, in 2000, by stressing populist themes and charging the GOP with being the party of the very wealthy.

- B. The End of the Two-Party System? The diminishing loyalty of voters to either political party and the rise of sentiment for third parties has led to a questioning of the viability of the two-party system. The two-party system has prevented the country from being polarized, or severely divided. Yet, despite Republican victories in 2000 and 2002, the two parties remain close to being equal, and, as a consequence, are often deadlocked.

VI. Case Study: E-Campaigning in the 2000 Election



In the 2000 election, the Internet proved valuable in the areas of fundraising, voter contact and advertising, and research. In terms of fundraising, Senator McCain raised \$6 million from online sources (in the 2000 election, up to 10% of all campaign funds were derived from Internet activity). The Internet was faster and more cost-effective than either mail or phones (Internet fundraising costs about 8 cents per dollar, compared to 50 cents by phone, 70 cents by mail). Regarding campaign content, both Bush and Gore used the Web, from allowing downloading of position papers to including video footage of campaign ads and online polling. As the author puts it, “the great advantage of the Web was that it allowed candidates to lay out their positions on issues without space or time limits.”

Conversely, Internet ads were not widespread in 2000, due to uncertainty about its impact (compared to TV or mail) and concern that such e-mail ads would antagonize voters.

Virtual Grassroots Campaigning, in 2000, was expanded, with both parties establishing thousands of e-mail precincts around the nation. Both sides used their sites to bash each other, with the GOP’s National Committee site being called “Gorewillsayanything.com”! E-mail for campaigning is cheap and can be done instantly. However, it requires e-mail addresses of voters, who in turn can assist in getting out the vote (Jesse Ventura used e-mail in his 1998 election for Governor, stamping out rumors that he favored legalized prostitution; Senator McCain recruited 26,000 online volunteers). In conclusion, much of the e-campaign lacks human emotion and personal contact, but further advances in technology may rectify this shortcoming.

## **KEY CHAPTER TERMS AND IDENTIFICATIONS**

voter turnout

political socialization  
social class--working, middle, and upper  
class as reflected in education, income, occupation  
"people with biggest stakes in society" go to the polls  
Hispanic voting is low  
"Motor Voter" legislation  
electoral barriers to voting—registration, residency, time constraints  
nonvoters (half or more of the population)  
political efficacy; lack of trust in government  
political apathy  
Jesse Jackson  
subjective explanations for non-voting  
political party--centralizes power  
Parties--contest elections, organize opinion, aggregate interests  
Third parties; parties incorporate changes  
Federalists versus Anti-Federalists  
Democrats and Whigs  
Republican Party; Lincoln as a "dark horse"  
GOP--"Grand Old Party"  
The "New Deal" coalition  
maintaining, deviating, realigning elections  
dealignment  
Ross Perot, Ralph Nader  
2000 election--George W. Bush  
2002-GOP control of Congress  
independent voters  
the "typical" Republican  
the "typical" Democrat  
party followers versus leaders  
liberals versus conservatives  
strong and weak partisan voters  
independent voters; decline in partisanship  
political machines (Richard Daley in Chicago)

leadership PACs, GOPAC (Newt Gingrich)  
the “permanent campaign”  
“pyramid-shaped” party structure  
in-party; out-party  
state parties/committees  
national party committee/chairperson  
professional political staff  
soft money (now banned by McCain-Feingold)  
McCain-Feingold-Cochran Campaign Reform Law  
hard money (regulated funds for federal candidates)  
the “Keating Five”  
national convention  
party platform and individual “planks”  
presidential primaries and caucuses  
“balance the ticket”  
one-party, two-party, multiparty systems  
historic dualism; moderate views of the voter  
single-member district/plurality  
proportional representation  
adoption of third-party programs by two main parties  
prevention of “polarization”  
"Seinfeld elections" (about nothing!)  
E-Campaigning, online donations  
Jesse Ventura and Senator John McCain  
“Gorewillsayanything.com”

## **TEACHING SUGGESTIONS**

1. Ask the class if American voters should be required to vote. Would a fine for not voting increase voting in America--why or why not?  
Second, ask for a show of hands on how many members of the class

are actually registered to vote (those students 18 or older). For those who are not, probe more deeply as to the reasons why.

2. Discuss with members of the class their earliest memories of political issues. Did parents discuss politicians and issues? Also, are the students' political party affiliations the same as their parents? An informal poll could prove interesting regarding the political socialization process.
3. What should be the role of money in politics? Will McCain-Feingold improve the integrity of the political process in America? Also, how does the high cost of campaigns hurt the potential for third-party organizations?
4. Ask students if they have ever used political websites to find out more about American politics. If some have, then ask which sites have been used and why they are helpful (this could also take the form of a research assignment).

## **SUGGESTED RESEARCH ASSIGNMENTS**

1. Examine why people vote the way they do. Have students do some informal polling to examine how people decide what presidential candidate to vote for. Are parties, the individuals, or issues most important in the decision? How important was what they heard during the campaign in making up their minds?
2. Assign several students to examine which issues influenced the outcome of the 2000 presidential election. Did the students interviewed mention the impact of these issues on how they decided to vote? How did both political parties try to “package” Al Gore and George W. Bush? Be sure the students cover the presidential TV debates. Finally, examine the issues during the 2002 midterm elections and ask students why the GOP did so well.
3. Study the current political functions of the national nominating conventions. Why has network television coverage of those conventions declined in recent years?
4. How has the Motor Voter legislation worked in your locality? Have students interview people registering new voters to get a sense of the change that this reform has brought.

## **CHAPTER EIGHT**

### ***Interest Groups and the Media***

#### **CHAPTER OVERVIEW**

This chapter explores how interest groups and the mass media affect American politics. Various types of interest groups and tactics of influence are covered, along with the role of lobbyists. Another important theme deals with money and its relationship to political campaigns, as shown by the power of PACs. Reform proposals to curb the power of PACs are also noted.

The importance of the mass media's relationship to national politics comprises the other half of the chapter. Television and newspapers are emphasized. News coverage and the significance of media mergers and new media are discussed. The three major types of media messages--news reports, entertainment programs, and advertising--are explained. An important sub-theme, "media profits and information diversity," follows. The interaction of politicians and media is examined, and the chapter ends with a case study of a fictional "day in the life" of a candidate for the U.S. Senate.

#### **LEARNING OBJECTIVES**

After reading chapter 8, the student should be able to:

1. List the various types of economic interest groups, with specific examples of each type.
2. Review the roles of the lobbyist and the various kinds of lobbying tactics.
3. Discuss the relationship between campaign contributions and PACs (Political Action Committees).
4. Summarize how the media affects political life, specifically noting such sub-themes as media mergers, sound bites, media messages and profitability, news management, media campaign ads, and the media's relationship to public opinion.
5. Discuss the political importance of the rise of new media, like the Internet, and alternative media forums, such as late-night TV talk shows.
6. Summarize the key points found in the chapter case study, "The Candidate: A Day in the Life . . . ."

## **OUTLINE**

### **I. Interest Groups**

Interest groups organize to pursue a common interest, by applying pressure on the political process. There are numerous groups in America, as Alexis de Tocqueville noted in 1835. Interest groups are usually more tightly organized than political parties. They are financed by contributions or by dues-paying members.

- A. Types of Interest Groups. The most important and widespread type of association is based on common economic interests.

Business groups (Chamber of Commerce, NAM), including corporations, are interested in profits and supporting a system that maintains them; professional associations (teachers, doctors, lawyers, etc.), labor unions (AFL-CIO), and agricultural lobbies are among the most powerful groups seeking protection and favors. In addition, there are religious (Christian Coalition), racial, environmental (Sierra Club), public interest, and political groups, all seeking to influence government policies.

- B. Lobbying. Interest groups or individuals put pressure on the government to act in their favor. The typical lobby is a professional staff of experienced people who provide information to congressional committees and the bureaucracy (the law requires Washington's lobbyists to register and limits gifts and meals for congressmen to \$100 a year, from any one person). These lobbyists include former members of Congress or the executive branch. Note the example of Senator Phil Gramm of Texas, who, after retirement from Congress, joined the Wall Street firm of UBS Warburg, for an annual salary of over \$1 million. Indirect lobbying (used by the NRA) may involve campaigns to enlist public recognition and support (grassroots campaigns--AARP) and attempts to influence other interest groups for their cause. In some cases, groups will form a coalition to lobby for one specific goal (e.g., free trade). Direct lobbying usually takes place in congressional committees and executive bureaucracies. Lobbyists, bureaucrats, and congressional committees comprise the so-called Iron Triangle.

Advocacy ads do not fall under campaign financing rules (they don't directly support a candidate and are not coordinated by campaign officials), so they can help a candidate and avoid restrictions on raising/spending money in an election. John McCain found this out when TV stations began broadcasting ads



in key primary states (2000 election), attacking his record on the environment. These ads were sponsored by two Texas billionaires (Sam and Charles Wyly) who were Bush supporters.

- C. Campaign Contributions and PACs. The most controversial aspects of lobbying relate to campaigns and elections. Interest groups can support friendly candidates or work to defeat candidates they oppose (in the 2000 election, energy, tobacco, and high tech companies supported Bush). The threat of using money against an incumbent can also have an impact upon decision-making. Political action committees (PACs) are set up by private groups in order to influence elections. (The earliest PAC, created in 1955, was the AFL-CIO's COPE.) Since campaign reforms of the mid-1970s put limits on individual donations, the numbers of PACs have mushroomed (from 608 in 1975 to 4,393 in 2000). As a result, election funds from special interests, especially business groups, have grown enormously, the exact opposite intention of the reforms. Money does buy access, the right to talk to a legislator (by 2000, GOP candidates got \$86 million from PACs, while Democrats got nearly \$80 million). The 2000 congressional elections were the most expensive in history. To win an open Senate seat cost almost \$14 million, and winning House candidates spent \$1.3 million. However, candidates who spend the most do not always win (Charles Schumer). Most recent attempts at new reforms haven't offered enough enticements to both "in" and "out" politicians to secure passage. Various attempts to reform PACs are usually opposed by one party, which feels the proposed reforms would benefit the other party.

- D. Do Group Interests Overwhelm the Public Interest?  
The growth in numbers and influence of interest groups is unarguable (by mid-1999, there were more than 38 registered

lobbyists and \$2.7 million in lobbying spent for every member of Congress). The failure of reforms is equally evident. As the number of interest groups has multiplied, the result has been hyperpluralism—too many groups making too many demands on government (see Greider’s “Grand Bazaar”). These criticisms are overstated. “Special interests” do not dominate the entire game. They are countered by politicians, other groups, and the media, all of which limit an interest group’s power and ensure that the results of the political competition remain unpredictable. Note that many studies reveal that lobbyists have little success in persuading members of Congress to change their minds; but “lobbyists gain support by presenting their cause as consistent with a popular concern.”

## II. The Media (sometimes called the “fourth branch of government”)

- A. What Are the Media? Media includes those means of communication that permit messages to be made public. Television dominates the mass media and is, in turn, dominated by the three major networks, CBS, NBC, and ABC. These networks function as agencies that produce and sell programs with advertising to their affiliates (each network had over 200; Fox had 177). In recent years, the three networks have been challenged by Fox and various cable stations (65 million television households get their signals through cable). Cable-only stations such as CNN and C-SPAN have also become important. New technologies are causing the distinctions between television, computers, and telephones to be blurred. For example, the Internet provides endless sources of information and entertainment. By 2002, the Internet was used by over two-thirds of the adult population in America. Newspapers, though more varied, have shown a rapid decline in number and competitiveness in this country. At the turn of the century,

there were 2,226 daily papers in the United States. By 2000, there were only 1,647. In 1920, there were 700 cities with competing newspapers. Today there are only 13.

- B. What Do the Media Do? The media provide three major types of messages--news reports, entertainment programs, and advertising. In news reports, the media selectively supply accounts of the most important events and issues (however, note that few people pay much attention to political news, especially young people under the age of 30). The most important function the media performs is agenda-setting—putting together an agenda of national priorities (what should be taken seriously, lightly, or ignored). In short, the media can't tell people what to think, but it can tell them what to think about. Entertainment programs subtly give images of “normal” behavior and turn political conflicts into personal problems. Advertising also presents images of a level of material well-being presumed to be within the reach of most people.

### III. Media and the Marketplace of Ideas

- A. The Media and Free Speech. Although the Framers of the Constitution saw communications media as part of a free market of varied ideas, recent trends have countered this goal. Profitability has led to a decline in the number of competing newspapers, the increase in media “chains,” and the control of TV and radio by a small number of corporations (ABC-Capital Cities was acquired by Disney). More than 80 percent of the nation's newspapers are owned by chains, and only three corporations own most of the nation's 11,000 magazines. Market calculations have caused mergers, meaning that ownership of almost all major outlets are concentrated in a few corporate hands (Disney/ABC, Viacom/CBS, America

Online/Time Warner). The dependence on advertising has led the media to avoid controversy, so as not to antagonize either consumers or advertisers. While the quantity of political information has certainly increased, the need for profitability and to provide entertainment has probably led to a decline in serious discussions of issues.

- B. The Media and the Government. These influence one another in various ways (in the early years of the Republic, the press was consciously partisan; by the end of the century, advertisers bankrolled papers).
1. The Federal Communication Commission regulates TV and radio (since 1934). Radio and TV stations must renew their broadcast licenses every six years.
  2. The media are both opportunity and adversary for campaigning politicians. Media advertising has accounted for 60 percent of campaign money in presidential races. Also, the quality of political news has not necessarily improved—the typical sound bite has declined from 42 seconds, in 1968, to 7 seconds. Finally, even late night talk shows played a large role in providing information on the 2000 presidential election (Leno and Letterman).
  3. Informal pressure by political leaders, through news management and promoting their favorable image to the public, is widespread. Presidents try to get on the good side of the media by giving favored reporters exclusive “leaks” of information, or through press conferences. Presidents now have large staffs of media experts and speech-writers to perfect their images. Bill Clinton’s attempts at good relations with the press came to an end when the media became fixated on covering the President’s affair with a young intern. Clinton also pursued the “alternative-media” strategy, avoiding White House

reporters in favor of local news anchors and televised town meetings. George W. Bush copied the Clinton strategy, adding a few twists of his own. He favored less-informed, less-critical reporters from outside of Washington and depended upon Dick Cheney for exploring issues in greater substantive depth. Yet, Bush's ability as a public communicator remained a presidential weakness.

- C. The Media and the Public. The media has a powerful influence on the political attitudes and actions of Americans. The media has the power to “define alternatives.” While they may check the activities of those in power, mainly they reflect and enhance the influence of the most powerful players in the political game.

IV. Case Study: Candidate: A Day in the Life . . . . .

- A. Morning. She is running for the Senate. Her typically early morning is dedicated to two good-sized towns that she hopes will provide exposure, personal contact, and money to a candidate whose advisers still disagree over whether she should carry a purse on the campaign trail. She meets local teachers for breakfast, parries a reporter’s question about her children, and has a good press conference. She does two press conferences a day, each with a new position paper, scheduled with hopes for space in the morning or evening papers, or the big prize, evening TV news.
- B. Afternoon. She’s late to lunch at a senior citizens’ center (the volunteer college driver got lost), and she hurries back to her motel to ask for more money from two well-off contributors, to keep several effective ads on the air as the campaign winds down. More phone calls for more money are followed by filming of a TV spot--45 seconds on the screen, two grueling

hours to film. Then it's off to two "coffees" given by supporters.

- C. Evening. She and her advisors discuss fine-tuning her aggressive attacks on her opponent, which are cutting into his lead but raising her "negatives." She postpones a decision to take advantage of her opponent's son's activities -- which may be unsavory -- as a campaign issue and goes to a TV debate, the last event of the day. Having scored well on her opponent in the debate, she calls her husband and children at home for support and leaves word for another 5 a.m. wakeup call.
- D. Analysis. Today's candidate spends more time on media exposure and fundraising than personal contact with voters; paradoxically, the core value that appeals to news media and to potential givers is personal contact.

### **KEY CHAPTER TERMS AND IDENTIFICATIONS**

"Special Interests"

Alexis de Tocqueville's *Democracy in America*

Interest group

James Madison and *The Federalist Papers*

economic interest groups

business, professional, labor, agricultural groups

National Association of Manufacturers; Chamber of Commerce

American Medical Association and American Bar Association

AFL-CIO

American Farm Bureau Federation; National Grange

Sierra Club, Greenpeace, Common Cause

lobbying and lobbyists, "Five Commandments of Lobbying"

1995 lobbying reform bill—lobbyists must register

Oregon U.S. Senator Bob Packwood

Former U.S. Senator Phil Gramm's Wall Street position

Christian Coalition  
Direct/Indirect Lobbying  
Iron Triangle  
grassroots campaigns  
coalitions  
John McCain and advocacy ads  
Sam and Charles Wyly  
AARP  
National Rifle Association  
Bush's corporate donors  
PACs (Political Action Committees);  
COPE  
Jon Corzine, Al D'Amato vs. Charles Schumer  
"money buys access"  
"money as a threat and offer"  
hyperpluralism, "Grand Bazaar" of deal making  
Lobbyists' influence  
millionaires "buying" elections  
*Buckley v. Valeo*  
the media--the "fourth branch of government"  
TV networks and affiliates--CBS, NBC, ABC, FOX  
CNN, C-SPAN  
Internet/World Wide Web  
Matt Drudge, Monica Lewinsky, Kenneth Starr  
Newspapers/wire services—AP, UPI  
media messages--news, entertainment, advertising  
media "selectivity"  
media's agenda-setting function  
media outlets and profit need  
Neil Postman (media critic)  
"marketplace of ideas"  
chain ownership of media outlets  
media mergers--Disney/ABC, NBC/General Electric, etc.

Penny papers  
Federal Communications Commission  
sound bites/pseudoevents  
late-night talk shows—Jay Leno, David Letterman  
Reagan as “The Great Communicator”; Lesley Stahl’s commentary  
leaks  
Clinton and Monica Lewinsky sex scandal  
Bush as a communicator/Vice-President Cheney  
President Kennedy and Pamela Turnure  
presidential press conferences  
“on message”  
E.E. Schattschneider’s “definition of alternatives”  
media’s political functions  
Federal Trade Commission’s report on entertainment industry



## **TEACHING SUGGESTIONS**

1. If possible, obtain videotapes of television political ads that were used in previous presidential campaigns. Show these clips to the class. Ask for reactions and discuss what messages were conveyed by those ads.
2. Discuss the role that lobbyists and interest groups play in American politics. Why are some groups more successful than others? Talk about the ethics of retired members of Congress lobbying their former colleagues.
3. Have students debate the question as to whether the many new media mergers of the past few years pose a threat to the free and diverse expression of ideas in America.
4. Ask students why so many young people (those under 30) are disinterested in politics. Also, how many members of the class watch an evening news program at least three times a week or read a newspaper editorial/column at least once a week?
5. Ask the class to consider the following question—do millionaires entering politics have a guaranteed advantage over their opponents, based upon the historical record—why or why not?

## **SUGGESTED RESEARCH ASSIGNMENTS**

1. Ask selected students to correspond with some of the major interest groups in America such as the AMA, AFL-CIO, the NRA, the NEA, NOW, and so forth. Information can then be collected and analyzed from group brochures, pamphlets, flyers, etc. The purpose would be to summarize the political stands of these groups and to see how they promote their own interests.

2. Have your students pick an important issue from the recent past. Trace how that issue gained prominence. Did the media set the agenda by reporting on the issue, or did the politicians create a media stir by discussing the issues? How do these two groups interact to set the political agenda?
3. Have students talk with roommates and friends about what news items they recall from this same week. How much do people not assigned to watch the news recall about a week's worth of news? Can one draw any conclusions about how attentive people are to the media's messages?
4. Ask several students to research how the media reacted to the three televised presidential debates during the 2000 election. Did the media appear to favor Gore or Bush?
5. Ask two teams of students to debate the following question—does money corrupt the American political process or not, especially after the passage of McCain-Feingold in 2002?